FEDERAL REGISTER

VOLUME 18 NUMBER 154

Washington, Friday, August 7, 1953

TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10478

DELEGATING TO THE SECRETARY OF DEFENSE THE AUTHORITY OF THE PRESIDENT TO ORDER CERTAIN MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES INTO ACTIVE FEDERAL SERVICE AND TO PRESCRIBE REGULATIONS GOVERNING THE APPOINTMENT, REAPPOINTMENT, AND PROMOTION OF SUCH MEMBERS

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

1. Except as otherwise provided in paragraph 3 hereof, there is hereby delegated to the Secretary of Defense (a) the authority vested in the President by subsection 4 (a) of the act of September 9, 1950, 64 Stat. 826, as amended by section 3 of the act of June 29, 1953, Public Law 84, 83d Congress, to prescribe regulations with respect to the appointment, reappointment, and promotion of any person liable for induction under the act of September 9, 1950, as amended, or any member of a reserve component who has been or shall be ordered to active duty on or before July 1, 1955, as a physician, dentist, or in an allied specialist category in the armed forces (including the Public Health Service) of the United States; and (b) the authority vested in the President by subsection 4 (c) of the said act of September 9, 1950, as amended by section 3 of the said act of June 29, 1953, to order to active duty in the armed forces of the United States, with or without their consent, those members of the reserve components of the armed forces of the United States who are registered under section 4 (i) of the Universal Military Training and Service Act (64 Stat. 826), as amended, and those persons who would be, but for such membership, liable for registration under the provisions of the said section 4 (i) as amended.

2. Persons ordered to active duty in the armed forces of the United States pursuant to subsection 4 (c) of the said act of September 9, 1950, as amended, shall, so far as practicable, be ordered to active duty in accordance with the priorities established under subsection 4 (i) of the Universal Military Training and Service Act (64 Stat. 826) as amended by the said act of June 29, 1953. The period of active duty that any such person may be required to perform shall not exceed (a) twenty-four months if he has had less than nine months of active service, as defined in paragraphs 4 (i) (4) and (5) of the Universal Military Training and Service Act, as amended; (b) twenty-one months if he has had at least nine but less than twelve months of such service; (c) eighteen months if he has had at least twelve but less than fifteen months of such service; and (d) fifteen months if he has had at least fifteen or more months of such service; since September 16, 1940, but prior to the date of his order to active duty under subsection 4 (c) of the said act of September 9, 1950, as amended.

3. So much of the said authority of the President as relates to members of the Coast Guard Reserve may be exercised by the Secretary of the Treasury when the Coast Guard is operating as a service in the Department of the Treasury.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
August 5, 1953.

[F. R. Doc. 53-6991; Filed, Aug. 6, 1953; 10:19 a. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

MISCELLANEOUS AMENDMENTS

1. Effective upon publication in the FEDERAL REGISTER, paragraphs (a) (1), (b) (1) (b) (2), (c) (1), (c) (2) (a) (1) (e) (1) (f) (1), (f) (2), and (g) (1) of § 6.108, and paragraph (e) (1) of § 6.111 are revoked.

2. Effective upon publication in the FEDERAL REGISTER, § 6.108 (b) (3) is amended to read as follows:

§ 6.108 *Department of Justice.* * * *

(b) *Office of the Attorney General.* * * *

(3) Six positions in the immediate Office of the Attorney General in addition to those otherwise excepted.

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EXECUTIVE AGENCIES

FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

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3. Effective upon publication in the FEDERAL REGISTER, the positions listed below are excepted from the competitive service under Schedule C.

§ 6.308 *Department of Justice*—(a) *Office of the Attorney General.* * * *

(3) Two private secretaries to the Attorney General.

(4) One chauffeur for the Attorney General.

(5) One special assistant for Public Relations.

(6) One confidential assistant to the Attorney General.

(b) *Office of the Deputy Attorney General.* * * *

(2) One confidential assistant (private secretary) to the Deputy Attorney General.

(c) *Office of the Solicitor General.* * * *

(3) One confidential assistant (private secretary) to the Solicitor General.

(d) *Anti-Trust Division.* * * *

(11) One confidential assistant (private secretary) to the Assistant Attorney General.

(e) *Civil Division.* * * *

(15) One confidential assistant (private secretary) to the Assistant Attorney General.

(f) *Criminal Division.* * * *

(9) One confidential assistant (private secretary) to the Assistant Attorney General.

(g) *Tax Division.* * * *

(6) One confidential assistant (private secretary) to the Assistant Attorney General.

(h) *Lands Division.* * * *

(6) One confidential assistant (private secretary) to the Assistant Attorney General.

(i) *Office of Alien Property.* * * *

(7) One confidential assistant (private secretary) to the Assistant Attorney General.

(j) *Immigration and Naturalization Service.* * * *

(2) One confidential assistant (private secretary) to the Commissioner.

(3) One Deputy Commissioner.

(k) *Board of Immigration Appeals.* * * *

(2) The Chairman.

(3) Four Members of the Board.

(l) *Executive Adjudication Division.* (1) One confidential assistant (private secretary) to the Assistant Attorney General.

(m) *Bureau of Prisons.* (1) The Director.

(2) Three Assistant Directors.

(n) *Federal Prison Industries, Inc.* (1) The Commissioner of Industries.

§ 6.311 *Department of Agriculture.* * * *

(k) *Farm Credit Administration.* * * *

(5) One private secretary to the Governor.

§ 6.314 *Executive Office of the President*—(a) *Bureau of the Budget.* (1) Assistant to the Director.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 10440, Mar. 31, 1953, 18 F. R. 1823)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 53-6922; Filed, Aug. 6, 1953; 8:51 a. m.]

TITLE 7—AGRICULTURE

Chapter XI—Agricultural Conservation Program, Department of Agriculture

PART 1101—NATIONAL AGRICULTURAL CONSERVATION

SUBPART—1954

Productive land is the main source of the food, clothing, and shelter for the American people. The conservation and improvement of this resource for sustained, productive use is an undertaking of vital concern to citizens of all walks of life.

The Agricultural Conservation Program is an important part, but only a part, of a coordinated effort to help land owners and operators attain soil conservation objectives. The total effort includes research, education, technical assistance, cost-sharing, and such indirect aids as credit.

The fundamental purpose of the Agricultural Conservation Program is to provide a means by which the public can share with land owners and operators the cost of carrying out needed conservation work over and above that which they would do with only their own resources. It is our sincere hope that the Agricultural Conservation Program will be carried out in such a manner that it will make a marked contribution toward attainment of conservation objectives.

The National Bulletin for 1954 establishes broad guides—consistent with law, congressional directives, and careful consideration of recommendations from State and county groups—for developing and carrying out a program in all States and counties for aiding in obtaining conservation of soil and water. The effectiveness of these Nation-wide guides mainly will depend on the sound and timely judgment used in their adaptation and administration in the States by State committees, in the counties by county committees, and participating agencies, and on farms and ranches by the land owners and operators who request and use aid available under the program.

The end result sought is effective conservation and improvement of the Nation's farms and ranches. We are confident fruitful results will accrue.

INTRODUCTION

FEDERAL COST-SHARES

CONSERVATION MATERIALS AND SERVICES

GENERAL PROVISIONS RELATING TO FEDERAL COST-SHARING

APPLICATION FOR PAYMENT OF FEDERAL COST-SHARES

APPEALS

STATE HANDBOOKS, BULLETINS, INSTRUCTIONS, AND FORMS

DEFINITIONS

AUTHORITY, AVAILABILITY OF FUNDS, AND APPLICABILITY

AUTHORITY: §§ 1101.500 to 1101.599 issued under sec. 4, 49 Stat. 164; 16 U. S. C. 590d. Interpret or apply secs. 7–17, 49 Stat. 1148, as amended, Pub. Law 156, 83d Cong.; 16 U. S. C. 590g–590q.

INTRODUCTION

§ 1101.500 *Introduction.* Through the 1954 Agricultural Conservation Program (referred to in this subpart as the 1954 program) administered by the Department of Agriculture, the Federal Government will share with farmers and ranchers the cost of carrying out approved conservation practices in accordance with the provisions contained in this subpart and such modifications thereof as may hereafter be made. Approved practices will be deemed to have been carried out during the program year if started after the beginning of the program year and the county committee determines that they are substantially completed by the end of the program year. However, no practice will be eligible for Federal cost-sharing until it has been completed in accordance with all applicable specifications and program provisions. The provisions of the program contained in this subpart are applicable to the continental United States.

GENERAL PROGRAM PRINCIPLES

§ 1101.501 *General program principles.* The 1954 National Agricultural Conservation Program has been developed and is to be carried out on the basis of the following general principles:

(a) The national program contains broad authorities to help meet the varied conservation problems of the Nation. State and county committees and participating agencies shall design a program for each State and county. Such programs should include any additional limitations and restrictions necessary for the maximum conservation accomplishment in the area. The programs should be confined to the conservation practices on which Federal cost-sharing is most needed in order to achieve the maximum conservation benefit in the State or county.

(b) The State and county programs should be designed to encourage those conservation practices which provide the most enduring conservation benefits practicably attainable in 1954 on the lands where they are to be applied.

(c) Costs will be shared with a farmer or rancher only on satisfactorily performed conservation practices for which Federal cost-sharing was requested by the farmer or rancher before the conservation work was begun.

(d) Costs should be shared only on practices which it is believed farmers would not carry out to the needed extent without program assistance. Generally, practices that have become a part of regular farming operations on a particular farm or ranch should not be eligible for cost-sharing.

(e) The rates of cost-sharing in a county or State are to be the minimum required to result in substantially increased performance of needed practices within the limits prescribed in the national program.

(f) The purpose of the program is to help achieve additional conservation on the land. Such of the available funds that cannot be wisely utilized for this purpose will be returned to the public treasury.

(g) If the Federal Government shares the cost of the initial application of conservation practices which farmers and ranchers otherwise would not perform but which are essential to the national interest, the farmers and ranchers should assume responsibility for the upkeep and maintenance of those practices.

DISTRIBUTION AND CONTROL OF FUNDS

§ 1101.502 *State funds.* Funds available for conservation practices will be distributed among States on the basis of conservation needs, but the proportion allocated for use in any State shall not be reduced more than 15 percent from its proportionate 1953 distribution.

§ 1101.503 *Control of funds.* (a) The State committee will allocate the funds available for conservation practices among the counties within the State, taking into consideration, to the extent practicable, the conservation needs in the counties within the State.

(b) The county committee, in accordance with a method approved by the State committee, will determine the extent to which Federal funds will be made available to share the cost of each approved practice on each farm or ranch, taking into consideration the county allocation, the conservation problems in the county and of the individual farm or ranch, and the conservation work for which requested Federal cost-sharing is considered by the county committee as most needed in 1954. The method approved shall provide for the issuance of notices of approval showing for each approved practice the number of units of the practice for which the Federal Government will share in the cost and the amount of the Federal cost-share for the performance of that number of units of the practice. The amount of the Federal cost-share shall not be increased after performance of the practice.

§ 1101.504 *Adjustments.* If, in any State, the total estimated earnings under the program exceed the total funds available, the Federal cost-shares will be reduced equitably.

DEVELOPMENT OF STATE AND COUNTY AGRICULTURAL CONSERVATION PROGRAMS, PRACTICE SPECIFICATIONS, SELECTION OF PRACTICES, ADAPTATION OF PRACTICES AND RATES OF COST-SHARING, POOLING AGREEMENTS, COMPLIANCE WITH REGULATORY MEASURES, AND STATE OR FEDERAL AID

§ 1101.506 *Development of State and county agricultural conservation programs.* (a) A State agricultural conservation program (referred to in this subpart as State program) shall be developed in each State in accordance with the provisions contained in this subpart and such modifications thereof as may hereafter be made. The program shall be developed by the State committee (including the State Director of Extension), the State Conservationist of the Soil Conservation Service, and the Forest Service official having jurisdiction of farm forestry in the State. The President of the Land-Grant College and the State Director of the Farmers Home Administration shall be invited to designate representatives to counsel with the group in the formulation of the State program. The chairman of the State committee shall invite representatives of the State Soil Conservation Committee (Board or Commission) the State Agricultural Extension Service, and other State and Federal agricultural agencies to participate in its deliberations on the State program. The program for the State shall be that recommended by the State committee, the State Conservationist of the Soil Conservation Service, and the Forest Service official having jurisdiction of farm forestry in the State, and approved by the Chief, Agricultural Conservation Program (referred to in this subpart as the Chief, ACP)

(b) A county agricultural conservation program (referred to in this subpart as county program) shall be developed in each county in accordance with the provisions of the State program and such modifications thereof as may be made. The county committee with the PMA community committeemen, the designated representative of the Soil Conservation Service in the county with the governing body of the Soil Conservation District, and the Federal Forest Service official having jurisdiction of

farm forestry in the county with the farm forestry representatives of the State, working with the County Agricultural Extension Agent for the county (if he is not included in the foregoing group as ex officio member of the county committee) and the County Supervisor of the Farmers Home Administration, shall develop recommendations for the county program. The program for the county then shall be formulated by the county committee, the local Soil Conservation Service technician, and the Forest Service official having jurisdiction of farm forestry in the county, in consultation with the governing body of the Soil Conservation District on the over-all conservation problems in the county and, especially, on the work plans of the Soil Conservation District and of the Federal agencies involved to assure the most effective use of the available technical assistance and funds for cost-sharing. The program as formulated shall be recommended to the State committee for approval by the State committee, the State Conservationist of the Soil Conservation Service, and the Forest Service official having jurisdiction of farm forestry in the State, and upon such approval shall become the 1954 program for the county. The program recommendation shall be signed by the chairman of the county committee, the Soil Conservation Service technician, and the Forest Service representative where present in the county, and shall state that the program was developed in consultation with the governing body of the Soil Conservation District.

§ 1101.507 *Practice specifications.* Minimum specifications which practices must meet to be eligible for Federal cost-sharing shall be set forth in the State handbook or in the county handbook, or be incorporated therein by specific reference.

§ 1101.508 *Selection of practices.* (a) Practices to be included in the State program or in the county program shall be only those practices for which the Production and Marketing Administration, Soil Conservation Service, and Forest Service locally agree that the bearing by the Federal Government of a share of the cost is essential to permit accomplishment of needed conservation work which would not otherwise be carried out in the desired volume.

(b) Each farm or ranch operator shall be given an opportunity to request that the Federal Government share in the cost of those practices on which he considers he needs such assistance in order to permit their performance in adequate volume on his farm or ranch. The county committee, taking into consideration the farmer's or rancher's request and any conservation plan developed by the farmer or rancher with the assistance of any State or Federal agency, shall direct the available funds for cost-sharing to those farms and ranches and to those practices where cost-sharing is considered most essential to the accomplishment of the basic conservation objective of the Department—The use of each acre of agricultural land within its capabilities and the treatment of each acre in accordance with its needs for protection and improvement.

§ 1101.509 *Adaptation of practices and rates of cost-sharing.* (a) The practices included in the State program must meet all conditions and requirements of the national program, as set forth in this subpart, but should be more limited as to number or applicability where proper, and should include restrictions and requirements in addition to those in the national program where necessary for effective use in meeting the conservation problems in the State.

(b) The practices included in the county program must meet all conditions and requirements of the State program, as set forth in the State handbook, but should be more limited as to number or applicability where proper, and should include restrictions and requirements in addition to those in the State program where necessary for effective use in meeting the conservation problems in the county.

(c) Rates of cost-sharing for practices included in the State program may be less than, but not in excess of, the maximums prescribed in the national program. The rates of cost-sharing for practices included in the county program may be lower than the rates approved for general use in the State.

(d) Rates of cost-sharing for liming materials shall be established on the basis of costs of bulk materials delivered to the farm, including the spreading thereof on the land; for commercial fertilizers rates of cost-sharing shall be established on the basis of costs of bagged materials delivered to the farm.

(e) Upon recommendation of the State and county committees and designated representatives of the Soil Conservation Service and Forest Service at both the county and State levels, the Chief, ACP may approve a rate of cost-sharing for one practice in a county higher than the maximum rate specified for such practice in this subpart, but not higher than the cost of performing the practice, provided the increased rate of cost-sharing is needed to introduce a new conservation practice into the county or to bring about a needed increase in the extent to which the practice otherwise would be carried out.

§ 1101.510 *Pooling agreements.* Farmers or ranchers in any local area may agree in writing, with the approval of the county committee, to perform designated amounts of practices which will conserve or improve the agricultural resources of the community. For purposes of eligibility for cost-sharing, practices carried out under such an approved written agreement will be regarded as having been carried out on the farms or ranches of the persons who performed the practices.

§ 1101.511 *Compliance with regulatory measures.* Persons who carry out conservation practices under the 1954 program shall be responsible for obtaining the authorities, rights, easements, or other approvals necesary to the performance and maintenance of the practices in keeping with applicable laws and regulations. The person with whom the cost of the practice is shared shall be responsible to the Federal Government for any losses it may sustain because he infringes on the rights of others or fails to comply with applicable laws or regulations.

§ 1101.512 *Practices carried out with State or Federal aid.* The Federal share of the cost for any practice shall not be reduced because it is carried out with materials or services furnished through the program or by any agency of a State to another agency of the same State, or with technical advisory services furnished by a State or Federal agency. In other cases of State or Federal aid, the total Federal cost-share computed on the basis of the total number of units of the practice performed shall be reduced by the value of the aid, as determined by the county committee, in computing the amount of the Federal cost-share to be paid for performance of the practice. Materials or services furnished or used by a State or Federal agency for the performance of practices on its land shall not be regarded as State or Federal aid for the purposes of this section.

CONSERVATION PRACTICES AND MAXIMUM RATES OF COST-SHARING

§ 1101.515 *Conservation practices and maximum rates of cost-sharing.* (a) This subpart contains a general description of the conservation practices of the 1954 program and the maximum rates of cost-sharing for the practices. Costs will be shared only for those practices for which cost-sharing is requested by the farm or ranch operator before performance of the practice is started. For practices for which (1) approval was given under the 1953 Agricultural Conservation Program, (2) performance was started but not completed during the 1953 program year, and (3) the county committee believes the extension of the approval to the 1954 program is justified under the 1954 program regulations and provisions, the filing of the request for assistance under the 1953 program may be regarded as meeting the requirement of the 1954 program that a request for cost-sharing be filed before performance of the practice is started. To the extent practicable, notices of approved practices shall be issued before performance of the practices is started.

(b) The Soil Conservation Service is responsible for the technical phases of the practices contained in §§ 1101.532, 1101.539, and 1101.542 to 1101.554, and also of the practices contained in §§ 1101.566, 1101.571, and 1101,572 where so recommended and approved. This responsibility shall include (1) a finding that the practice is needed and practical on the farm, (2) necessary site selection, other preliminary work, and layout work of the practice, (3) necessary supervision of the installation, and (4) certification of performance. In addition, the Soil Conservation Service is responsible for determining that the practices contained in §§ 1101.516 to 1101.518, 1101.520, 1101.521, 1101.527 to 1101.531, 1101.533, 1101.534, 1101,540, 1101.541, and 1101.565 are needed and practical on the farm.

The State Conservationist of the Soil Conservation Service may utilize assistance from private, State, or Federal agencies in carrying out these assigned responsibilities.

(c) The Forest Service is responsible for the technical phases of the practices contained in §§ 1101.522 and 1101.535. This responsibility shall include (1) providing necessary specialized technical assistance, (2) development of specifications for forestry practices, and (3) working through State and county committees, determining performance in meeting these specifications.

(d) Information with respect to the several practices for which costs will be shared when carried out on a particular farm or ranch, and the exact specifications and rates of cost-sharing for such practices, may be obtained from the county committee for the county in which the farm or ranch is located or from the State committee.

(e) For those practices in this subpart which authorize Federal cost-sharing for minimum required applications of liming materials and commercial fertilizers, the minimum required application on which cost-sharing is authorized shall in each case be determined on the basis of a current soil test: *Provided, however,* That if the State committee determines available facilities are inadequate to provide the necessary tests, the Chief, ACP may, upon the recommendation of the State committee, authorize the use, to the extent necessary, of an alternative basis for determination by the county committee of such minimum required applications. Such alternative basis, which shall contain criteria adequate to insure beneficial use of Federal cost-sharing approved, shall be formulated by the State committee in full consultation with the representatives of the State and Federal agencies participating in the development of the State program.

(f) The average cost as specified under the maximum rate of cost-sharing for certain practices in this subpart may be the average cost for a State, a county, a part of a county, or a farm or ranch, as determined by the State committee. In addition, upon determination that there is no substantial variation within an area in costs of a practice for which actual costs are otherwise provided for in this subpart, the State committee may approve a rate of cost-sharing based on the average cost in that area.

(g) Costs for the practices contained in §§ 1101.516 to 1101.518, 1101.526, 1101.527, 1101.539, 1101.540, and 1101.553 to 1101.560 may be shared even though a good stand is not established, if the county committee determines, in accordance with standards approved by the State committee, that the practice was carried out in a manner which would normally result in the establishment of a good stand, and that failure to establish a good stand was due to weather or other conditions beyond the control of the farm or ranch operator. The county committee may require as a condition of cost-sharing in such cases that the area be reseeded, or that other needed protective measures be carried out.

CONSERVATION PRACTICES WITH ENDURING BENEFITS (WHERE PROPERLY APPLIED AND MAINTAINED)

PRACTICES PRIMARILY FOR ESTABLISHMENT OF PERMANENT PROTECTIVE COVER

§ 1101.516 *Practice A–1. Initial establishment of a permanent cover of biennial or perennial legumes or self-reseeding annuals, or perennial grasses, or a mixture of legumes and perennial grasses, in orchards and vineyards for control of erosion.* Minimum seeding rates, eligible seeds, and proportions of grass and legume seeds in eligible mixtures, minimum requirements for cultural operations in preparing the land for seeding, and other steps essential to successful establishment of the practice must be specified in the State or county handbook. Volunteer stands and acreages cut for hay are not eligible.

Maximum Federal cost-share. 50 percent of the average cost of establishing the vegetative cover, including seedbed preparation, plus 50 percent of the average cost of the minimum required application of approved liming materials and commercial fertilizers, excluding nitrogen, for establishment of the cover.

§ 1101.517 *Practice A–2: Initial establishment of a permanent cover of perennial legumes or perennial grasses, or mixtures of legumes and perennial grasses, on severely eroded land or land so subject to erosion or with soils so shallow, alkaline, stony, or incapable of drainage, or so sandy or of such low inherent productive capacity, or where the average rainfall is so low, that for soil protection its use should be in permanent vegetative cover.* This practice is eligible only on land where it is determined that complete seedbed preparation and a full seeding are necessary. Minimum seeding rates, eligible seeds, and proportions of grass and legume seeds in eligible mixtures, minimum requirements for cultural operations in preparing the land for seeding, and other steps essential to successful establishment of the practice must be specified in the State or county handbook. Not applicable on lands where strip or placer mining operations have been carried out, on lands where sod has been removed, or on land occupied by a merchantable stand of timber or pulpwood, or to the clearing of land which if cleared would be suitable for cultivation. Fencing may be approved only where necessary to protect the seeded area and only for the extent necessary to fence that area.

Maximum Federal cost-share. (1) 50 percent of the average cost of establishing the vegetative cover, including seedbed preparation, plus 50 percent of the average cost of the minimum required application of approved liming materials and commercial fertilizers, including nitrogen, for establishment of the cover.

(2) 50 percent of the average cost of grading, shaping, or filling.

(3) 50 percent of the average cost of necessary land clearing.

(4) 50 percent of the average cost of fencing materials used.

§ 1101.518 *Practice A–3: Initial establishment on cropland of perennial or biennial legumes or perennial grasses, or mixtures of legumes and perennial grasses, to retard erosion and to improve soil structure, permeability, or water-holding capacity, as a part of a crop rotation.* This practice is applicable only in counties, or parts of a county, where it is determined that crop rotations for soil improvement which include perennial grasses, perennial and biennial legumes, or mixtures of such legumes and perennial grasses, are not now generally in use. Federal cost-sharing on the individual farm will be limited to cropland needing such plantings to retard erosion, for improvement of soil structure, permeability, or water-holding capacity and, on such land, to an acreage which, together with the acreage of all such plantings on cropland on the farm at the beginning of the 1954 program, will not exceed 35 percent of the cropland on the farm. Minimum seeding rates, eligible seeds, and proportions of grass and legume seeds in eligible mixtures, the minimum requirement for cultural steps essential to successful establishment of the practice, and the minimum rotation period required for the plantings must be specified in the State or county handbook.

Maximum Federal cost-share. 50 percent of the average cost of seed or other planting materials, plus 50 percent of the average cost of the minimum required application of approved liming materials and commercial fertilizers, including nitrogen, for establishment of the cover.

§ 1101.519 *Practice A–4: Initial treatment of cropland to permit the use of legumes and grasses for soil improvement and protection.* Applicable only to cropland devoted in 1954 to legumes (other than vegetable or truck crops, soybeans, mung beans, and peanuts) or perennial grasses and to cropland which the county committee determines will be devoted to such eligible uses in 1955. This practice is not applicable on any acreage on which cost-sharing for liming materials is otherwise permitted under the national program. Any acreage on which Federal cost-sharing is given under this practice under the 1954 program will not qualify for cost-sharing for liming in subsequent years. The application of liming materials contained in commercial fertilizers, phosphate rock, or basic slag will not qualify for cost-sharing under this practice.

Maximum Federal cost-share. 50 percent of the average cost of the minimum required application of approved liming materials to correct the basic pH deficiency of the soil.

§ 1101.520 *Practice A–5: Initial establishment of contour stripcropping on nonterraced land to protect soil from water or wind erosion.* Guidelines must be established and all cultural operations performed as nearly as practicable on the contour. The types of eligible protected and protective crops and uses must be specified in the State handbook. The crop stubble or crop residue must be left standing over winter, or a winter cover crop established, or necessary protective tillage operations carried out, on acreage devoted to row crops. Federal cost-sharing may be authorized for removing stone walls or hedgerows only where such removal is necessary to the

establishment of an effective contour stripcropping system.

Maximum Federal cost-share. (1) $3 per acre in the stripcropping system.

(2) 50 percent of the cost of removal of stone walls or hedgerows, as determined by the county committee.

§ 1101.521 *Practice A–6: Initial establishment of field stripcropping to protect soil from wind or water erosion.* The maximum and minimum widths of the strips and the types of eligible protected and protective crops, and uses must be specified in the State handbook. The crop stubble or crop residue must be left standing over winter, or a winter cover crop established, or necessary protective tillage operations carried out, on acreage devoted to row crops.

Maximum Federal cost-share. $2 per acre.

§ 1101.522 *Practice A–7 Planting, interplanting, or replanting trees or shrubs on farmland in windbreaks, shelterbelts, and farm woodlots or woodlands, for erosion control, watershed protection, or forestry purposes.* No Federal cost-sharing will be allowed for planting orchard trees, or for plantings for ornamental purposes. If shrubs are used, those that benefit wildlife should be given preference wherever practicable. Plantings must be protected from fire and grazing. Federal cost-sharing may be authorized for clearing land occupied largely by scrubby brush of no economic value to permit planting of desirable tree species. The eligible clearing methods and the maximum average slope on which the clearing may be carried out must be specified in the State handbook. Necessary erosion preventive measures must be carried out. Technical assistance must be utilized to determine the suitability of the land for clearing and the measures necessary to prevent erosion. Federal cost-sharing for fencing shall be limited to permanent fences. Boundary and road fences and the repair, replacement, or maintenance of existing fences are excluded. Domestic animals must be excluded from the fenced area.

Maximum Federal cost-share. (1) 50 percent of the average cost of trees and planting, including land preparation.

(2) 50 percent of the average cost of land clearing.

(3) 50 percent of the average cost of fencing materials used.

PRACTICES PRIMARILY FOR IMPROVEMENT AND PROTECTION OF ESTABLISHED VEGETATIVE COVER

§1101.526 *Practice B–1. Initial improvement of an established permanent grass or grass-legume cover for soil or watershed protection.* This practice is applicable only on land which is suitable for, is now in, and is intended to remain permanently in use as pasture, hay, or both, and on which the benefits of an improved vegetative cover can be extended materially without complete reestablishment measures. All seedbed preparation, seeding, and other measures needed to assure an improved permanent vegetative cover which will provide adequate and extended soil protection must be carried out; however, Federal cost-sharing will be limited to perennial grasses and needed legumes used and the minimum required application of approved liming materials, and where seedings are required, phosphate and potash. Minimum seeding rates, eligible seeds, proportions of grass and legume seeds in specified eligible mixtures, minimum requirements for seedings of annuals and biennials required for adequate cover, minimum requirements for fertilization, minimum requirements for cultural operations in preparing the land for seeding, and other steps essential to adequate improvement of the vegetative cover must be specified in the State or county handbook.

Maximum Federal cost-share. 50 percent of the average cost of seed of perennial grasses and needed legumes used, plus 50 percent of the average cost of the minimum required application of approved liming materials, plus, where seeding is needed and required, 50 percent of the average cost of the minimum required application of commercial fertilizers, excluding nitrogen, for initial improvement of the cover.

§ 1101.527 *Practice B–2: Initial improvement of vegetative cover on rangeland for soil protection.* Seeding adapted perennial grasses, perennial legumes, or other range forage plants necessary to provide adequate soil protection on rangeland. The practice must be performed in accordance with the principles of sound range management. Minimum seeding rates, eligible seeds, and proportions of grass and legume seeds in eligible mixtures must be specified in the State or county handbook. Seeded areas shall not be grazed until the stand is well established, and no Federal cost-sharing will be allowed if it is determined that the area seeded is overgrazed.

Maximum Federal cost-share. 50 percent of the average cost of establishing the improved vegetative cover of perennial grasses or perennial or reseeding legumes, including seedbed preparation.

§ 1101.528 *Practice B–3: Controlling competitive shrubs necessary to permit growth of adequate, desirable, vegetative cover for soil protection on range or pasture lands.* Eligible shrubs and control measures must be specified in the State or county handbook. No Federal cost-sharing will be allowed if it is determined that the area is overgrazed. The practice must be performed in accordance with the principles of sound grassland management. On areas where it is determined that the control of competitive shrubs will reduce the vegetative cover to such an extent as to induce erosion, the practice will not be approved unless followed by seeding. No Federal cost-sharing will be allowed for any acreage where the control measures are performed through normal farming operations in connection with land preparation for planting or cultivation of crops.

Maximum Federal cost-share. 50 percent of the average cost.

§ 1101.529 *Practice B–4: Furrowing, chiseling, ripping, scarifying, pitting, or listing noncrop grazing land to prevent soil loss, retard runoff, and improve water penetration.* The operation must be as nearly as practicable on the contour. Within a given area the eligible operations must be confined to those having the most enduring benefits practicably attainable under existing conditions. The State handbook must specify the maximum spacing interval which will qualify for cost-sharing.

Maximum Federal cost-share. 50 percent of the average cost.

§ 1101.530 *Practice B–5: Constructing or deepening wells for livestock water to obtain proper distribution of livestock, and encourage rotation grazing and better grassland management as a means of protecting established vegetative cover* Adequate storage facilities must be provided. Pumping equipment must be installed, except for artesian wells. No Federal cost-sharing will be allowed for wells constructed at or for the use of headquarters. On rangeland the practice must be performed in accordance with the principles of sound range management.

Maximum Federal cost-share. 50 percent of the average cost of drilling and casing, including installation of the casing.

§ 1101.531 *Practice B–6: Developing springs or seeps for livestock water to obtain proper distribution of livestock, and encourage rotation grazing and better grassland management as a means of protecting established vegetative cover* On rangeland the practice must be performed in accordance with the principles of sound range management. This practice may not be approved for the restoration of structures constructed under a previous program unless it is determined that the failure of the original structure was caused by conditions other than lack of proper maintenance by the operator.

Maximum Federal cost-share. (1) 50 percent of the cost of excavating earth, rock, and gravel.

(2) 50 percent of the cost of materials used in the permanent structure, excluding forms.

§ 1101.532 *Practice B–7 Constructing, enlarging, or sealing dams, pits, or ponds for livestock water to obtain proper distribution of livestock, and encourage rotation grazing and better grassland management as a means of protecting established vegetative cover* Necessary fencing and seeding or sodding to protect the dam and to provide filter strips shall be specified in the State or county handbook. No Federal cost-sharing will be allowed for cleaning or maintaining an existing structure, or for the restoration of structures constructed under a previous program unless it is determined that the failure of the original structure was caused by conditions other than lack of proper maintenance by the operator. On rangeland the practice must be performed in accordance with the principles of sound range management. Federal cost-sharing for seeding or sodding dams and filter strips may be authorized under § 1101.540.

Maximum Federal cost-share. (1) 50 percent of the average cost of earth moving.

(2) 50 percent of the average cost of materials, other than riprap or revetment materials, used in the permanent structure, excluding forms.

(3) 50 percent of the average cost of riprap or revetment, including installation.

(4) 50 percent of the average cost of fencing materials used.

§ 1101.533 *Practice B–8: Installing pipelines for livestock water to obtain proper distribution of livestock, and encourage rotation grazing and better grassland management as a means of protecting established vegetative cover* The practice must be performed in accordance with the principles of sound grassland management.

Maximum Federal cost-share. 50 percent of the average cost of pipe.

§ 1101.534 *Practice B–9: Construction of permanent cross fences or drift fences to obtain better distribution and control of livestock grazing and to promote proper management for protection of the established forage resource.* Boundary fences, fences between pasture and other land, and the repair, replacement, or maintenance of existing fences will not qualify. This practice may be approved only where fencing will contribute to better distribution of livestock and seasonal use of the forage. Fences constructed with materials other than those used in standard barbed or woven wire fences will qualify in areas where standard fences are impracticable, provided the county committee determines that the fence to be constructed is equivalent to standard fences in both usefulness and durability. The State handbook must specify the minimum gage wire, size and type of posts, treatment processes approved, and other construction specifications with respect to spacing and setting of posts and type of bracing required for standard fences.

Maximum Federal cost-share. 50 percent of the average cost of fencing materials used.

§ 1101.535 *Practice B–10: Initial improvement of a stand of forest trees for erosion control, watershed protection, or forestry purposes.* Federal cost-sharing may be allowed only for: (a) Thinning, (b) pruning crop trees, (c) release of desirable tree seedlings by removing or killing competing and undesirable vegetation, (d) site preparation for natural reseeding, and (e) fencing. The minimum stand of desirable species which must be present in order for the acreage to be eligible must be specified in the State handbook. No Federal cost-sharing will be allowed for any area from which merchantable products are harvested in the process of carrying out the practice, unless the county committee determines that the primary purpose of the operation was the improvement of the residual stand of trees. The area must be protected from fire. Where seedlings are present or needed, the area must be protected from grazing. Federal cost-sharing for site preparation will be limited to areas which have a sufficient number of desirable seed trees for natural reseeding, which will not restock unless brush, dense litter, and other material on the forest soil is broken up or removed so that soil is exposed, and on which the seed trees will be left until the area is restocked. Where necessary, erosion preventive measures must be carried out. Technical assistance shall be utilized if available, otherwise the practice must be carried out in accordance with approved technical forestry standards. Federal cost-sharing for fencing shall be limited to permanent fences, excluding boundary and road fences, and excluding also the repair, replacement, or maintenance of existing fences. Domestic animals must be excluded from the fenced woodland. No Federal cost-sharing will be allowed under this practice on the same acreage under any subsequent program for any improvement measure, such as thinning, specified for in this section, which Federal cost-sharing is given under this practice under the 1954 program.

Maximum Federal cost-share. (1) 50 percent of the average cost of approved timber stand improvement measures.

(2) 50 percent of the average cost of fencing materials used.

PRACTICES PRIMARILY FOR THE CONSERVATION AND DISPOSAL OF WATER

§ 1101.539 *Practice C–1. Establishing permanent sod waterways to dispose of excess water without causing erosion.* The maximum width of the waterways for which Federal cost-sharing will be allowed must be specified in the State handbook. Minimum seeding rates, eligible seeds, and proportions of grass and legume seeds in eligible mixtures, minimum requirements for cultural operations in preparing the land for seeding, avoidance of detrimental overgrazing, and other steps essential to successful establishment of the practice must be specified in the State or county handbook. Federal cost-sharing may be authorized under this practice for necessary enlargements, reshaping, or reseeding of inadequate systems; except that the practice may not be approved for reshaping or reseeding of waterways constructed under a previous program unless it is determined that the failure of the original system was caused by conditions other than lack of proper maintenance by the operator.

Maximum Federal cost-share. (1) 50 percent of the average cost of establishing the vegetative cover, including seedbed preparation, plus 50 percent of the average cost of the minimum required application of approved liming materials and commercial fertilizers, including nitrogen, for establishment of the cover.

(2) 50 percent of the average cost of grading, shaping, or filling.

§ 1101.540 *Practice C–2: Initial establishment of permanent vegetation to stabilize and protect gullies, dams, dikes, leevees, diversion ditches or terraces, drainage ditches, farm road ditches, and field borders.* Minimum seeding or planting rates, eligible plants or seeds, shrubs, or trees, and proportions of grass and legume seeds in eligible mixtures, minimum requirements for cultural operations in preparing the land for seeding or planting, and other steps essential to successful establishment of the practice must be specified in the State or county handbook. Federal cost-sharing may be allowed under this practice for establishment of filter strips to minimize siltation of diversions and ponds. Consideration should be given to choice of plants favorable to wildlife. On diversion filter strips and field borders, the maximum and minimum widths of strips for which Federal cost-sharing will be allowed must be specified in the State handbook.

Maximum Federal cost-share. 50 percent of the average cost of establishing the vegetative cover, including seedbed preparation, plus 50 percent of the average cost of the minimum required application of approved liming materials and commercial fertilizers, including nitrogen, for establishment of the cover.

§ 1101.541 *Practice C–3: Initial establishment of orchards, vineyards, bush fruits, strawberries, or perennial vegetables on the contour to prevent erosion.* Guidelines must be established and all cultural operations performed as nearly as practicable on the contour.

Maximum Federal cost-share. (1) $5 per acre for orchards, vineyards, or asparagus.

(2) $3 per acre for bush fruits, strawberries, or perennial vegetables other than asparagus.

§ 1101.542 *Practice C–4: Constructing terraces to detain or control the flow of water and check soil erosion on sloping land.* Necessary protective outlets or waterways must be provided. Federal cost-sharing for outlets or waterways may be authorized under § 1101.545 or § 1101.539. Federal cost-sharing may be authorized for removing stone walls or hedgerows but only where such removal is necessary to the establishment of an effective terrace system. Costs of construction may include necessary leveling and filling to permit installation of an effective system as well as construction of terrace levees. The practice may not be approved for the restoration of terraces constructed under a previous program unless it is determined that the failure of the original terrace was caused by conditions other than lack of proper maintenance by the operator.

Maximum Federal cost-share. (1) 50 percent of the average cost of construction of the terraces.

(2) 50 percent of the cost of removal of stone walls or hedgerows, as determined by the county committee.

(3) 50 percent of the average cost of necessary leveling and filling.

§ 1101.543 *Practice C–5. Constructing diversion terraces, ditches, or dikes to intercept runoff and divert excess water to protected outlets.* Necessary protective outlets or waterways must be provided. Federal cost-sharing for outlets and waterways may be authorized under § 1101.545 or § 1101.539. Federal cost-sharing may be authorized for removing stone walls or hedgerows but only where such removal is necessary to the establishment of an effective terrace system. Costs of construction may include necessary leveling and filling to permit installation of an effective system as well as construction of terrace levees. The practice may not be approved for the restoration of terraces, ditches, or dikes constructed under a previous program unless it is determined that the failure of the original structure was caused by conditions other than lack of proper maintenance by the operator.

Maximum Federal cost-share. (1) 50 percent of the average cost of earth moving.

(2) 50 percent of the cost of removal of stone walls or hedgerows, as determined by the county committee.

§ 1101.544 *Practice C–6: Constructing erosion control, detention, or sediment retention dams, including the enlargement of inadequate structures, to prevent or heal gullying or to retard or reduce runoff of water* Necessary fencing and seeding or sodding to protect the structure and to provide filter strips shall be specified in the State or county handbook. Federal cost-sharing for seeding or sodding dams may be authorized under § 1101.540. This practice may not be approved for the restoration of structures constructed under a previous program unless it is determined that the failure of the original structure was caused by conditions other than lack of proper maintenance by the operator.

Maximum Federal cost-share. (1) 50 percent of the average cost of moving earth in the construction of dams, wings, and walls.

(2) 50 percent of the average cost of wire diversions, rock or rock-and-brush dams, and riprap, including installation.

(3) 50 percent of the average cost of other materials used in the permanent structure, excluding forms.

§ 1101.545 *Practice C–7 Constructing channel lining, chutes, drop spillways, pipe drops, drop inlets, or similar structures for the protection of outlets and water channels that dispose of excess water*

Maximum Federal cost-share. (1) 50 percent of the average cost of materials, other than riprap or revetment materials, used in the permanent structure, excluding forms.

(2) 50 percent of the average cost of riprap or revetment, including installation.

(3) 50 percent of the average cost of earth moving.

§ 1101.546 *Practice C–8: Stream bank or shore protection, channel clearance, enlargement or realinement, or construction of floodways, levees, or dikes, to prevent erosion or flood damage to farmland:* Channel clearance is limited to small watercourses. Levee or dike construction is limited to structures of low height along small watercourses or to protect farmland from overflow or backwater. This practice shall not be approved in cases where there is any likelihood that it will create an erosion or flood hazard to other adjacent land, or where its primary purpose is to bring new land under cultivation. This practice may not be approved for the restoration of structures constructed under a previous program unless it is determined that the failure of the original structure was caused by conditions other than lack of proper maintenance by the operator.

Maximum Federal cost-share. 50 percent of the cost of the clearing, earth moving, and protective mechanical and vegetative measures installed, including riprap and revetment.

§ 1101.547 *Practice C–9 Constructing and enlarging permanent open drainage systems to dispose of excess water* Federal cost-sharing will be limited to construction or enlargement of permanent ditches and structural work necessary to the proper functioning of the ditches. Federal cost-sharing may be authorized for clearing the necessary minimum width right-of-way and, where necessary for the effective utilization of the drainage system, for the spreading of spoil banks. No Federal cost-sharing will be allowed for cleaning or maintaining a ditch or for structures installed for crossings or other structures primarily for the convenience of the farm operator. In the installation of drainage systems, due consideration shall be given to the maintenance of wildlife. Federal cost-sharing for seeding or sodding earthen flumes, rights-of-way, and ditch banks may be authorized under § 1101.540.

Maximum Federal cost-share. (1) 50 percent of the average cost of earth moving.

(2) 50 percent of the average cost of materials used in the permanent structure, excluding forms.

(3) 50 percent of the average cost of necessary land clearing.

§ 1101.548 *Practice C–10: Installing underground drainage systems to dispose of excess water* Federal cost-sharing will be limited to installation of tile or other approved underground conduit and structural work necessary to the proper functioning of the system. No Federal cost-sharing will be allowed for repairing or maintaining existing drains.

Maximum Federal cost-share. 50 percent of the average cost of material delivered to the farm and 50 percent of the average cost of installation.

§ 1101.549 *Practice C–11. Shaping or land grading to permit effective surface drainage.* No Federal cost-sharing will be allowed for any shaping or grading which is performed through farming operations in connection with land preparation for planting or cultivation of crops.

Maximum Federal cost-share. 50 percent of the average cost of earth moving.

§ 1101.550 *Practice C–12: Reorganizing farm irrigation systems to conserve water and prevent erosion.* The practice must be carried out in accordance with a reorganization plan approved by the responsible technician. No Federal cost-sharing will be allowed for cleaning a ditch, for repairs or replacement of existing structures, for maintenance, or for structures installed for crossings or other structures primarily for the convenience of the farm operator.

Maximum Federal cost-share. (1) 50 percent of the average cost of moving earth, gravel, or rock in the construction or enlargement of permanent ditches, dikes, or laterals.

(2) 50 percent of the average cost of materials used in the permanent structure, excluding forms, in the construction or installation of siphons, flumes, drops or chutes, weirs, division boxes, turnouts, permanently located pipe, and similar structures needed.

(3) 50 percent of the average cost of pipe used in the installation of permanently located main lines and standpipes for sprinkler irrigation.

§ 1101.551 *Practice C–13: Leveling irrigable land for more efficient use of irrigation water and to prevent erosion.* No Federal cost-sharing will be allowed for floating or restoration of grade. Not applicable in connection with irrigable land for which suitable water is not available. The leveling must be carried out in accordance with a plan approved by the responsible technician.

Maximum Federal cost-share. 50 percent of the average cost of earth moving.

§ 1101.552 *Practice C–14. Constructing, enlarging, or lining dams, pits, or ponds for irrigation water* Necessary fencing and seeding or sodding to protect the structure and to provide filter strips shall be specified in the State or county handbook. No Federal cost-sharing will be allowed for cleaning or maintaining existing structures or for the restoration of structures constructed under a previous program unless it is determined that the failure of the original structure was caused by conditions other than lack of proper maintenance by the operator. Federal cost-sharing for seeding or sodding dams and filter strips may be authorized under § 1101.540. No Federal cost-sharing will be allowed for the excavation of pits for the interception of underground water.

Maximum Federal cost-share. (1) 50 percent of the average cost of earth moving.

(2) 50 percent of the average cost of materials, other than riprap and revetment materials, used in the permanent structure, excluding forms.

(3) 50 percent of the average cost of riprap or revetment, including installation.

§ 1101.553 *Practice C–15. Lining irrigation ditches to prevent erosion and loss of water by seepage.* This practice is limited to ditches that are properly located and constructed as a part of an existing irrigation system. Where turnouts, drops, gates, checks, or other structures are needed in the ditch, such structures shall be installed at the time the ditch is lined.

Maximum Federal cost-share. 50 percent of the average cost of the lining.

§ 1101.554 *Practice C–16: Constructing spreader ditches or dikes to divert and spread water to prevent erosion, to permit beneficial use of runoff, or to replenish ground water supply.*

Maximum Federal cost-share. 50 percent of the average cost of earth moving.

CONSERVATION PRACTICES WITH BENEFITS OF LIMITED DURATION (GENERALLY REQUIRING PERIODIC REPETITION)

PRACTICES PRIMARILY FOR ESTABLISHING TEMPORARY, PROTECTIVE VEGETATIVE COVER

§ 1101.558 *Practice D–1. Initial establishment in the cropping system of winter annual legumes, annual ryegrass, or rescue grass, for winter protection from erosion.* A good stand and good growth must be obtained in sufficient time to protect the area from late fall and winter rain in 1953 or 1954 and must be maintained on the land to a date specified in the county handbook. Pasturing consistent with good management may be permitted, but none of the growth may be harvested for hay or seed. Volunteer stands will not qualify. Federal cost-sharing will be limited to the acreage in excess of the normal acreage of such plantings, which shall not be less than the average of all such plantings for the past 3 years. Minimum seeding rates, eligible seeds, proportions of seeds in eligible mixtures, minimum

requirements for cultural operations in preparing the land for seeding, and other steps essential to successful establishment of the practice must be specified in the State or county handbook.

Maximum Federal cost-share. 50 percent of the average cost of the seed.

§ 1101.559 *Practice D–2: Initial establishment in the cropping system of summer annual legumes and adapted nonlegumes for summer protection from erosion.* A good stand and good growth must be obtained and left on the land or turned under. Vegetable and truck crops for sale, small grains, all soybeans, mung beans, or peanuts and seedings (other than crotalaria) interplanted with row crops are not eligible. Pasturing consistent with good management may be permitted, but none of the growth may be harvested for hay or seed. Volunteer stands will not qualify. Federal cost-sharing will be limited to the acreage in excess of the normal acreage of such plantings, which shall not be less than the average of all such plantings for the past 3 years. Minimum seeding rates, eligible seeds, proportions of seeds in eligible mixtures, minimum requirements for cultural operations in preparing the land for seeding, and other steps essential to successful establishment of the practice must be specified in the State or county handbook.

Maximum Federal cost-share. 50 percent of the average cost of the seed.

§ 1101.560 *Practice D–3: Initial establishment in the cropping system of biennial or perennial legumes, or perennial grasses, or mixtures of such legumes with adapted grasses, for green manure and for protection from erosion.* A good stand must be obtained and a good growth incorporated into the soil in 1954 or in the spring of 1955 and must be maintained on the land to a date specified in the county handbook. Pasturing consistent with good management may be permitted, but none of the growth may be harvested for hay or seed. Volunteer stands will not qualify. Federal cost-sharing will be limited to the acreage in excess of the normal acreage of such plantings, which shall not be less than the average of all such plantings for the past 3 years. Minimum seeding rates, eligible seeds, proportions of seeds in eligible mixtures, minimum requirements for cultural operations in preparing the land for seeding, and other steps essential to successful establishment of the practice must be specified in the State or county handbook.

Maximum Federal cost-share. 50 percent of the average cost of the seed.

PRACTICES PRIMARILY FOR THE TEMPORARY PROTECTION OF SOIL FROM WIND AND WATER EROSION

§ 1101.564 *Practice E–1. Initiation of stubble mulching into the farming system to improve soil permeability and to protect soil from wind and water erosion.* A stubble mulch must be maintained on the surface soil by performing tillage operations which will leave the major portion of crop or weed residue on the surface and incorporate only partially the balance of the residue into the surface of the soil. No cost-sharing will be allowed if the acreage has been burned over or grazed, or if the straw has been removed. The State or county handbook shall specify the tillage operations required and the period they shall cover, the types of equipment to be used, and the earliest date by which the first tillage operation may be started. Eligible operations, within a given area, must be confined to those having the most enduring benefits practicably attainable under existing conditions. Cultural or tillage measures which have become a part of normal farming operations on the farm will not qualify for cost-sharing.

Maximum Federal cost-share. 50 percent of the average cost of those required protective tillage operations which are not primarily for crop production.

§ 1101.565 *Practice E–2: Initial establishment of contour farming operations on nonterraced land to protect soil from wind or water erosion.* Guidelines must be established and all cultural operations performed as nearly as practicable on the contour. The crop stubble or crop residue must be left standing over winter, or a winter cover crop established, or necessary protective tillage operations carried out, on acreage devoted to row crops. The cost of necessary field reorganization to permit contour operations may not be considered in determining the Federal cost-share for this practice. This practice is not applicable on any acreage for which Federal cost-sharing is approved under § 1101.520. Federal cost-sharing may be authorized for removing stone walls or hedgerows only where such removal is necessary to the establishment of an effective contour farming system.

Maximum Federal cost-share. (1) 50 percent of the amount by which the average cost of carrying out contour farming operations exceeds the average cost of carrying out normal farming operations not on the contour.

(2) 50 percent of the cost of removal of stone walls or hedgerows, as determined by the county committee.

§ 1101.566 *Practice E–3: Wind erosion control operations in serious wind erosion areas.* Applicable only in areas where the Chief, ACP, upon the recommendation of the State committee and the designated representatives of the Soil Conservation Service and Forest Service at the State level, determines there is a serious wind erosion problem for 1954. Eligible operations shall be specified in the State handbook and shall be confined to those having the most enduring benefits practicably obtainable under existing conditions. Cultural or tillage measures which are a part of normal farming operations will not qualify for cost-sharing.

Maximum Federal cost-share. 50 percent of the average cost of those required protective tillage operations which are not primarily for crop production.

CONSERVATION PRACTICES WITH LIMITED AREA APPLICABILITY

PRACTICES TO MEET SPECIAL COUNTY CONSERVATION NEEDS

§ 1101.570 *Practice F–1: Special conservation practices.* The Chief, ACP, upon recommendation of the State and county committees and designated representatives of the Soil Conservation Service and Forest Service at both the county and State levels, consistent with the principles set forth in § 1101.501, may approve for use in the county practices included in this subpart for which there is need locally on a substantial number of farms but which are not selected for use in the State.

Maximum Federal cost-share. The maximum cost-share for the practices set forth in this subpart.

§ 1101.571 *Practice F–2: County conservation practices.* The county committee and designated local representatives of the Soil Conservation Service and Forest Service may request approval of a practice or practices, consistent with the principles set forth in § 1101.501, which they deem necessary to meet particular conservation problems in the county for which this subpart does not otherwise provide appropriate practices and which exist on a substantial number of farms on which the practices would not be carried out to the needed extent without financial assistance. The Chief, ACP may approve such a recommended practice upon determination by the State committee, the State Conservationist of the Soil Conservation Service, and the Forest Service representative, that the recommended practice: (a) Will adequately meet the problem, (b) would not be performed to the desired extent without program assistance, (c) will have conservation benefits of an enduring or permanent nature, (d) is a practice on which the offering of financial assistance is fully justified as being in the public interest, (e) meets the standards and requirements of comparable practices set forth in this subpart, and (f) will not have the effect of expanding the scope or applicability of a practice, the limits of which have been defined for national application in this subpart.

Maximum Federal cost-share. That percentage of the cost specified as the maximum for a practice of a similar type included in this subpart.

§ 1101.572 *Practice F–3: Practices to meet new conservation problems.* This section provides authority for the development, consistent with the principles set forth in § 1101.501, of a practice, or practices, for the treatment of critical conservation problems, primarily those which have arisen subsequent to the initiation of the program in a county, the treatment of which cannot safely be delayed until the next year's program is available. Such a practice, or practices, may be approved by the Chief, ACP, upon the recommendation of the State and county committees and designated representatives of the Soil Conservation Service and Forest Service, at both the county and State levels, upon their finding: (a) That the necessity for treatment of the problem was unforeseeable when the county program was developed, (b) that the practices contained in this subpart are inadequate to treat the problem, (c) that the proposed practice provides means adequate to effectively treat the problem, (d) that the offering of Federal

cost-sharing is justified as within the scope of national conservation objectives, (e) that adequate facilities, including necessary technical services, will be available to permit the practice to be carried out effectively, and (f) that delay in offering Federal cost-sharing until a subsequent program will cause further irreparable damage to the land.

Maximum Federal cost-share. The percentage of cost of performing the practice agreed upon by the county and State committees and the designated representatives of the Soil Conservation Service and Forest Service, and approved by the Chief, ACP as the minimum required to obtain adequate performance of the practice under the prevailing conditions.

FEDERAL COST-SHARES

§ 1101.575 *Division of Federal cost-shares*—(a) *Federal cost-shares.* The Federal cost-share attributable to the use of conservation materials or services shall be credited to the person to whom the materials or services are furnished. Other Federal cost-shares shall be credited to the person who carried out the practices by which such other Federal cost-shares are earned. If more than one person contributed to the carrying out of such practices, the Federal cost-share shall be divided among such persons in the proportion that the county committee determines they contributed to the carrying out of the practices. In making this determination, the county committee shall take into consideration the value of the labor, equipment, or material contributed by each person toward the carrying out of each practice on a particular acreage, and shall assume that each contributed equally unless it is established to the satisfaction of the county committee that their respective contributions thereto were not in equal proportion. The furnishing of land or the right to use water will not be considered as a contribution to the carrying out of any practice.

(b) *Death, incompetency, or disappearance.* In case of death, incompetency, or disappearance of any person, any Federal share of the cost due him shall be paid to his successor, determined in accordance with the provisions of the regulations in ACP–122, as amended (part 1108 of this chapter)

§ 1101.576 *Increase in small Federal cost-shares.* The Federal cost-share computed for any person with respect to any farm or ranch shall be increased as follows: *Provided, however* That in the event legislation is enacted which repeals or amends the authority for making such increases, the Secretary may in such manner and at such time as is consistent with such legislation discontinue such increases:

(a) Any Federal cost-share amounting to $0.71 or less shall be increased to $1.

(b) Any Federal cost-share amounting to more than $0.71, but less than $1, shall be increased by 40 percent.

(c) Any Federal cost-share amounting to $1 or more shall be increased in accordance with the following schedule:

Amount of cost-share computed:	*Increase in cost-share*
$1 to $1.99	$0.40
$2 to $2.99	.80
$3 to $3.99	1.20
$4 to $4.99	1.60
$5 to $5.99	2.00
$6 to $6.99	2.40
$7 to $7.99	2.80
$8 to $8.99	3.20
$9 to $9.99	3.60
$10 to $10.99	4.00
$11 to $11.99	4.40
$12 to $12.99	4.80
$13 to $13.99	5.20
$14 to $14.99	5.60
$15 to $15.99	6.00
$16 to $16.99	6.40
$17 to $17.99	6.80
$18 to $18.99	7.20
$19 to $19.99	7.60
$20 to $20.99	8.00
$21 to $21.99	8.20
$22 to $22.99	8.40
$23 to $23.99	8.60
$24 to $24.99	8.80
$25 to $25.99	9.00
$26 to $26.99	9.20
$27 to $27.99	9.40
$28 to $28.99	9.60
$29 to $29.99	9.80
$30 to $30.99	10.00
$31 to $31.99	10.20
$32 to $32.99	10.40
$33 to $33.99	10.60
$34 to $34.99	10.80
$35 to $35.99	11.00
$36 to $36.99	11.20
$37 to $37.99	11.40
$38 to $38.99	11.60
$39 to $39.99	11.80
$40 to $40.99	12.00
$41 to $41.99	12.10
$42 to $42.99	12.20
$43 to $43.99	12.30
$44 to $44.99	12.40
$45 to $45.99	12.50
$46 to $46.99	12.60
$47 to $47.99	12.70
$48 to $48.99	12.80
$49 to $49.99	12.90
$50 to $50.99	13.00
$51 to $51.99	13.10
$52 to $52.99	13.20
$53 to $53.99	13.30
$54 to $54.99	13.40
$55 to $55.99	13.50
$56 to $56.99	13.60
$57 to $57.99	13.70
$58 to $58.99	13.80
$59 to $59.99	13.90
$60 to $185.99	14.00
$186 to $199.99	(1)
$200 and over	(2)

[1] Increase to $200.
[2] No increase.

§ 1101.577 *Federal cost-shares limited to $1,500.* (a) The total of all Federal cost-shares under the 1954 program to any person with respect to farms, ranching units, and turpentine places in the United States (including Alaska, Hawaii, Puerto Rico, and the Virgin Islands) shall not exceed the sum of $1,500.

(b) All or any part of any Federal cost-share which otherwise would be due any person under the 1954 program may be withheld, or required to be refunded, if he has adopted, or participated in adopting, any scheme or device, including the dissolution, reorganization, revival, formation, or use of any corporation, partnership, estate, trust, or any other means, designed to evade, or which has the effect of evading, the provisions of this section.

CONSERVATION MATERIALS AND SERVICES

§ 1101.579 *Availability.* (a) Part or all of the Federal cost-share for an approved practice may be in the form of conservation materials or services furnished through the program for use in carrying out the practice. Materials or services may not be furnished to persons who are indebted to the Federal Government, as indicated by the register of indebtedness maintained in the office of the county committee, except in those cases where the agency to which the debt is owed waives its rights to setoff in order to permit the furnishing of materials and services.

(b) Title to any material furnished through the program shall vest in the Federal Government until the material is applied or planted, or all charges for the material are satisfied.

§ 1101.580 *Cost to farmer or rancher* The farmer or rancher shall pay that part of the cost of the material or service, as established under instructions issued by the Chief, ACP which is in excess of the Federal cost-share attributable to the use of the material or service. The Federal cost-share increase on the amount of the Federal cost-share attributable to the use of the material or service may be advanced as a credit against that part of the cost of the material or service required to be paid by the farmer or rancher.

§ 1101.581 *Discharge of responsibility for materials and services.* (a) The person to whom a material or service is furnished under the 1954 program will be relieved of responsibility for the material or service upon determination by the county committee that the material or service was used in performing the practice for which the material or service was furnished. If the person uses any material or service for any purpose other than that for which it was furnished, he shall be indebted to the Federal Government for that part of the cost of the material or service borne by the Federal Government and shall pay such amount to the Treasurer of the United States direct or by withholdings from Federal cost-shares otherwise due him under the program.

(b) Any person to whom materials are furnished shall be responsible to the Federal Government for any damage to the materials, unless he shows that the damage was caused by circumstances beyond his control. If materials are abandoned or not used during the program year, they may, in accordance with instructions issued by the Chief, ACP, be transferred to another person or otherwise disposed of at the expense of the person who abandoned or failed to use the material, or be retained by the person for use in a subsequent program year.

GENERAL PROVISIONS RELATING TO FEDERAL COST-SHARING

§ 1101.583 *Maintenance of practices.* The sharing of costs, by the Federal Government, for the performance of approved conservation practices on any farm or ranch under the 1954 program will be subject to the condition that the

person with whom the costs are shared will maintain such practices in accordance with good farming practices as long as the land on which they are carried out is under his control.

§ 1101.584 *Practices defeating purposes of programs.* If the State committee finds that any person has adopted or participated in any practice which tends to defeat the purposes of the 1954 or any previous program, including, but not limited to, failure to maintain in accordance with good farming practices, practices carried out under a previous program, it may withhold, or require to be refunded, all or any part of the Federal cost-share which otherwise would be due him under the 1954 program.

§ 1101.585 *Depriving others of Federal cost-share.* If the State committee finds that any person has employed any scheme or device (including coercion, fraud, or misrepresentation) the effect of which would be or has been to deprive any other person of the Federal cost-share due that person under the program, it may withhold, in whole or in part, from the person participating in or employing such a scheme or device, or require him to refund in whole or in part, the Federal cost-share which otherwise would be due him under the 1954 program.

§ 1101.586 *Filing of false claims.* If the State committee finds that any person has knowingly filed claim for payment of the Federal cost-share under the program for practices not carried out, or for practices carried out in such a manner that they do not meet the required specifications therefor, such person shall not be eligible for any Federal cost-sharing under the program and shall refund all amounts that may have been paid to him under the program. The withholding or refunding of Federal cost-shares will be in addition to and not in substitution of any other penalty or liability which might otherwise be imposed.

§ 1101.587 *Misuse of purchase orders.* If the State committee finds that any person has knowingly used a purchase order issued to him for conservation materials or services for a purpose other than that for which it was issued, and that such misuse of the purchase order tends to defeat the purpose for which it was issued, such person shall not be eligible for any Federal cost-sharing under the program and shall refund all amounts that may have been paid to him under the program. The withholding or refunding of Federal cost-shares will be in addition to and not in substitution of any other penalty or liability which might otherwise be imposed.

§ 1101.588 *Federal cost-shares not subject to claims.* Any Federal cost-share, or portion thereof, due any person shall be determined and allowed without regard to questions of title under State law without deduction of claims for advances (except as provided in § 1101.589, and except for indebtedness to the United States subject to setoff under orders issued by the Secretary (Part 1109 of this chapter)), and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

§ 1101.589 *Assignments.* Any person who may be entitled to any Federal cost-share under the 1954 program may assign his right thereto, in whole or in part, as security for cash loaned or advances made for the purpose of financing the making of a crop in 1954. No assignment will be recognized unless it is made in writing on Form ACP-69 and in accordance with the instructions in ACP-70.

APPLICATION FOR PAYMENT OF FEDERAL COST-SHARES

§ 1101.591 *Persons eligible to file application.* Any person who, as landlord, tenant, or sharecropper on a farm or ranch, bore a part of the cost of an approved conservation practice is eligible to file an application for payment of the Federal cost-share due him.

§ 1101.592 *Time and manner of filing application and required information.* Payment of Federal cost-shares will be made only upon application submitted on the prescribed form to the county office. Payment may be withheld from any person who fails to file any form or furnish any information required with respect to any farm or ranch which such person is operating or renting to another. Any application for payment may be rejected if any form or information required of the applicant is not submitted to the county office within the time fixed by the Chief, ACP, which time shall be not later than December 31, 1955. At least 2 weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms or required information, and any time limit fixed shall afford a full and fair opportunity to those eligible to file the form or information within the period prescribed. Such notice shall be given by mailing notice to the office of each county committee and making copies available to the press.

APPEALS

§ 1101.594 *Appeals.* Any person may, within 15 days after notice thereof is forwarded to or made available to him, request the county committee in writing to reconsider its recommendation or determination in any matter affecting the right to or the amount of his Federal cost-shares with respect to the farm or ranch. The county committee shall notify him of its decision in writing within 15 days after receipt of written request for reconsideration. If the person is dissatisfied with the decision of the county committee, he may, within 15 days after the decision is forwarded to or made available to him, appeal in writing to the State committee. The State committee shall notify him of its decision in writing within 30 days after the submission of the appeal. If he is dissatisfied with the decision of the State committee, he may, within 15 days after its decision is forwarded to or made available to him, request the Chief, ACP, to review the decision of the State committee. The decision of the Chief, ACP, shall be final. Written notice of any decision rendered under this section by the county or State committee shall also be issued to each other landlord, tenant, or sharecropper on the farm who may be adversely affected by the decision.

STATE HANDBOOKS, BULLETINS, INSTRUCTIONS, AND FORMS

§ 1101.595 *State handbooks, bulletins, instructions, and forms.* The Chief, ACP is authorized to make determinations and to prepare and issue State handbooks, bulletins, instructions, and forms required in administering the 1954 program. Copies of State handbooks, bulletins, instructions, and forms containing detailed information with respect to the 1954 program as it applies to specific States, counties, areas, and farms and ranches will be available in the office of the State committee (11 F. R. 177A-285) and the office of the county committee. Persons wishing to participate in the program should obtain from the State committee or county committee all information needed in order to comply with all provisions of the program.

DEFINITIONS

§ 1101.596 *Definitions.* For the purposes of the 1954 program:

(a) "Secretary" means the Secretary of Agriculture of the United States.

(b) "Chief, ACP" means the Chief of the Agricultural Conservation Program.

(c) "State" means any one of the continental United States.

(d) "State committee" means the persons in a State designated by the Secretary as the State committee of the Production and Marketing Administration.

(e) "County" means parish or county.

(f) "County committee" means the persons elected within a county as the county committee pursuant to regulations governing the selection and functions of Production and Marketing Administration county and community committees.

(g) "Person" means an individual, partnership, association, corporation, estate, or trust, or other business enterprise, or other legal entity (and, wherever applicable, a State, a political subdivision of a State, or any agency thereof) that, as landlord, tenant, or sharecropper, participates in the operation of a farm or ranch.

(h) "Farm" or "ranch" means all adjacent or nearby farm or range land under the same ownership which is operated by one person, including also (1) any other adjacent or nearby farm or range land which the county committee, in accordance with instructions issued by the Chief, ACP, determines is operated by the same person as part of the same unit in producing range livestock or with respect to the rotation of crops, and with work stock, machinery, and labor substantially separate from that for any other land; and (2) any field-rented tract (whether operated by the same or another person) which, together with any other land included in

the farm or ranch, constitutes a unit with respect to the rotation of crops. A farm or ranch shall be regarded as located in the county in which the principal dwelling is situated or, if there is no dwelling thereon, it shall be regarded as located in the county in which the major portion of the farm or ranch is located.

(i) "Cropland" means farmland which in 1953 was tilled or was in regular crop rotation, excluding (1) bearing orchards and vineyards (except the acreage of cropland therein) (2) plowable noncrop open pasture, and (3) any land which constituted, or will constitute if tillage is continued, a wind erosion hazard to the community.

(j) "Rangeland" means nonirrigated land, located in arid and semi-arid areas, growing, without cultivation or fertilization, native perennial grasses and forage plants primarily and used for grazing by domestic livestock. For purposes of this definition, arid and semi-arid areas shall be limited to applicable areas west of the 98th meridian, except that other specific areas may be approved by the Chief, ACP

(k) "Program year" means the period, designated in the State handbook, during which conservation practices must be carried out to be eligible for cost-sharing. The program year may begin on or after September 1, 1953, and end not later than December 31, 1954; *Provided, however,* That if the 1954 program begins prior to the close of the 1953 program in the county, the following rule shall apply if cost-sharing is offered under both programs for performing in that period practices designed to meet the same conservation problem. If 1953 program assistance was approved for performance of a particular practice on a farm during the period that the 1953 program and the 1954 program are both in effect in a county, any 1954 program cost-sharing approved for performance of that practice on that farm in that period must be for units of the practice over and above those units of the practice approved by the county committee for performance under the 1953 program in that period. This rule shall apply without regard to whether the 1953 program assistance approved for that particular practice for that period was in an amount equal to or less than the approved units of the practice times the announced credit rate and without regard to whether the amount of 1953 program assistance approved was guaranteed or was conditional on availability of funds from under earnings of other approvals under the 1953 program in the county.

AUTHORITY, AVAILABILITY OF FUNDS, AND APPLICABILITY

§ 1101.597 *Authority.* The program contained in this subpart is approved pursuant to the authority vested in the Secretary of Agriculture under sections 7–17 of the Soil Conservation and Domestic Allotment Act, as amended (49 Stat. 1148; 16 U. S. C. 590g–590q) and the Department of Agriculture Appropriation Act, 1954.

§ 1101.598 *Availability of funds.* (a) The provisions of the 1954 program are necessarily subject to such legislation as the Congress of the United States may hereafter enact; the paying of the Federal cost-shares provided in this subpart is contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such Federal cost-shares will necessarily be within the limits finally determined by such appropriation.

(b) The funds provided for the 1954 program will not be available for paying Federal cost-shares for which applications are filed in the county office after December 31, 1955.

§ 1101.599 *Applicability.* (a) The provisions of the 1954 program contained in this subpart are not applicable to (1) any department or bureau of the United States Government or any corporation wholly owned by the United States; (2) grazing lands owned by the United States which were acquired or reserved for conservation purposes, or which are to be retained permanently under Government ownership, including, but not limited to, grazing lands administered by the Forest Service or the Soil Conservation Service of the United States Department of Agriculture, or by the Bureau of Land Management (including lands administered under the Taylor Grazing Act) or the Fish and Wildlife Service of the United States Department of the Interior; (3) nonprivate persons for performance on any land owned by the United States or a corporation wholly owned by it; and (4) farms outside the continental United States.

(b) The program is applicable to (1) privately owned lands; (2) lands owned by a State or political subdivision or agency thereof; (3) lands owned by corporations which are partly owned by the United States, such as production credit associations; (4) lands temporarily owned by the United States or a corporation wholly owned by it which were not acquired or reserved for conservation purposes, including lands administered by the Farmers Home Administration, the Reconstruction Finance Corporation, the Federal Farm Mortgage Corporation, the United States Department of Defense, or by any other Government agency designated by the Chief, ACP; (5) any cropland farmed by private persons which is owned by the United States or a corporation wholly owned by it; and (6) Indian lands, except that where grazing operations are carried out on Indian lands administered by the Department of the Interior, such lands are within the scope of the program only if covered by a written agreement approved by the Department of the Interior giving the operator an interest in the grazing and forage growing on the land and a right to occupy the land in order to carry out the grazing operations.

Done at Washington, D. C., this 3d day of August 1953.

[SEAL] E. T. BENSON,
Secretary of Agriculture.

[F. R. Doc. 53-6903; Filed, Aug. 6, 1953; 8:48 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

Subchapter B—Trade Practice Conference Rules

PART 159—HEARING AID INDUSTRY

CROSS REFERENCE: For supersedure of the trade practice rules for the Hearing Aid Industry contained in Part 159, see Part 214 of this subchapter, *infra.*

[File No. 21-383]

PART 214—HEARING AID INDUSTRY

PROMULGATION OF TRADE PRACTICE RULES

Due proceedings having been held under the trade practice conference procedure in pursuance of the act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission;

It is now ordered, That the trade practice rules of Group I and Group II, as hereinafter set forth, which have been approved and received, respectively, by the Commission in this proceeding, be promulgated as of August 7, 1953.

Statement by the Commission. Trade practice rules for the Hearing Aid Industry as hereinafter set forth are promulgated by the Federal Trade Commission under the trade practice conference procedure. Such rules constitute a revision and extension of, and supersede, the trade practice rules for this Industry as promulgated by the Commission on December 30, 1944.

The rules are directed to the elimination and prevention of various unfair trade practices and are issued in the interest of protection of the buying public against deception and the maintenance of fair competitive conditions in the industry.

The industry for which these trade practice rules are established is composed of persons, firms, corporations, and organizations engaged in the manufacture, distribution, or sale of instruments or devices designed for or represented as aiding, improving, or correcting defective hearing, and parts and accessories therefor.

Proceedings to revise the existing trade practice rules for the Hearing Aid Industry as promulgated December 30, 1944, were instituted upon application of a member of the industry. Drafts of proposed revised and extended rules were published by the Commission and made available to all industry members and other interested or affected parties upon public notices whereby they were afforded opportunity to present their views, suggestions, objections, or amendments respecting the rules, and to be heard in the premises. Pursuant to such public notices, hearings were held in Washington, D. C., and all matters there presented, or otherwise received in the proceedings, were duly considered by the Commission.

Following such hearings, and upon full consideration of the entire matter, final

action was taken by the Commission whereby it approved and received, respectively, the Group I and Group II rules hereinafter set forth.

Such rules become operative thirty (30) days from the date of promulgation.

The rules. These rules promulgated by the Commission are designed to foster and promote the maintenance of fair competitive conditions in the interest of protecting industry, trade, and the public. It is to this end, and to the exclusion of any act or practice which fixes or controls prices through combination or agreement, or which unreasonably restrains trade or suppresses competition, or otherwise unlawfully injures, destroys, or prevents competition, that the rules are to be applied.

Sec.

AUTHORITY: §§ 214.0 to 214.104 issued under sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45.

§ 214.0 *Industry products defined.* As used in this part the term "industry products" shall include all instruments or devices designed for or represented as aiding, improving, or correcting defective hearing, and parts and accessories therefor.

GROUP I

General statement. The unfair trade practices embraced in §§ 214.1 to 214.23 are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in commerce.

§ 214.1 *Misrepresentation in general.* It is an unfair trade practice for any member of the industry to use, or cause or promote the use of, any trade promotional literature, advertising matter, testimonial, guarantee, warranty, mark, insignia, depiction, brand, label, designation, or representation, however disseminated or published, which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers, or of aiding, abetting, or causing sales agents, dealers or distributors, or other marketers to mislead, deceive, or confuse the purchasing or consuming public:

(a) With respect to the grade, quality, quantity, origin, novelty, price, terms of sale, use, construction, size, design, visibility, durability, performance, efficacy, cost of operation, resistance to climatic conditions, or physiological benefits of any industry product; or

(b) With respect to any service offered, promised, or to be supplied to purchasers of such products; or

(c) With respect to the manufacture, distribution, marketing, or servicing of any industry product; or

(d) With respect to the scientific or technical knowledge, training, experience, or other qualifications of an industry member, or of any of his employees, relating to the selection, fitting, adjustment, maintenance, or repair of industry products; or

(e) Which is false, misleading, or deceptive in any other respect.

NOTE: This section shall be construed as inhibiting the false advertisement of hearing aids as the term "false advertisement" is defined in section 15 of the Federal Trade Commission Act.

[Rule 1]

§ 214.2 *Guarantees, warranties, etc.* (a) It is an unfair trade practice to use, or cause to be used, any guarantee or warranty which is false, misleading, deceptive, or unfair to the purchasing or consuming public, whether in respect to the quality, construction, serviceability, performance, or method of manufacture of any industry product, or the terms and conditions of refund of purchase price thereof, or in any other respect.

(b) The inhibitions of paragraph (a) of this section are to be considered as applicable with respect to any guarantee or warranty in which the terms and conditions relating to the obligation of the guarantor or warrantor are deceptively minimized or stated, or in which the obligations of the guarantor or warrantor are impractical of fulfillment; and as also applicable to the use of any guarantee or warranty in respect of which the guarantor or warrantor fails or refuses to observe scrupulously his obligations thereunder.

(c) It is also an unfair trade practice to represent any hearing aid as being "guaranteed" unless the nature and extent of the undertaking, and the identity of the guarantor, are conjunctively disclosed. [Rule 2]

§ 214.3 *"Bait" advertising.* (a) It is an unfair trade practice for any industry member to advertise a particular model or kind of hearing aid for sale when purchasers or prospective purchasers responding to such advertisement cannot purchase the advertised model or kind from the industry member and the purpose of the advertisement is to obtain prospects for the sale of a different model or kind of hearing aid than that advertised.

(b) Under this section no sales practices or methods shall be used

(1) To deprive prospective customers of a fair opportunity to purchase any advertised model of hearing aid; or

(2) To falsely disparage any advertised model of hearing aid or compare it unfairly with other models which the advertiser intends to sell instead of the advertised model.

(c) It is also an unfair trade practice for any industry member to advertise or offer for sale a small or inadequate supply of hearing aids at reduced or bargain prices without disclosure of the inadequacy of the supply available at such prices and with the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers. [Rule 3]

§ 214.4 *Misrepresentation of earnings of salesmen or agents.* It is an unfair trade practice for any member of the industry to make or publish, or cause to be made or published, any advertisement, offer, statement, or other form of representation which directly or by implication is false, misleading, or deceptive:

(a) Concerning the salary, commission, income, earnings, or other remuneration which agents, canvassers, solicitors, or sales representatives receive or may receive; or

(b) Concerning any conditions or contingencies affecting such remuneration or the opportunities therefor. [Rule 4]

§ 214.5 *Misrepresentation as to character of business.* It is an unfair trade practice for any member of the industry to represent, directly or indirectly, through the use of any word or term in his corporate or trade name, in his advertising or otherwise, that he is a manufacturer of hearing aids, or of batteries or other parts or accessories therefor, or that he is the owner or operator of a factory or producing company manufacturing them, or that he owns or maintains an acoustical research laboratory devoted to hearing aid research or development, when such is not the fact, or in any other manner to misrepresent the character, extent, or type of his business. [Rule 5]

§ 214.6 *Deception as to benefit of services or advice of a doctor* (a) In connection with the sale and offering for sale of industry products, it is an unfair trade practice for any industry member to represent or imply that the services or advice of a doctor have been used in the designing or manufacturing of an industry product, or will be used or made available in the selecting, testing, or adjusting of industry products to the individual needs of consumer-purchasers, when such is not the fact.

(b) The inhibitions of this section are applicable to the use of the terms "doctor," "physician," or "otologist," and to any abbreviation of such terms, and are also applicable to the use of any symbol or depiction which connotes the medical profession.

NOTE: Because the terms "specialist," "clinic," "audiologist," and "consultant" may have a medical connotation when used in connection with the promotion of the sale of hearing aids, such terms, when used by industry members and not intended to refer to a member of the medical profession, should be so qualified, or be accompanied by such statement or statements, as to eliminate possible deception of purchasers and prospective purchasers.)

[Rule 6]

§ 214.7 *Deception as to visibility or construction.* (a) It is an unfair trade practice to represent, through the use of such words, terms, or expressions as "invisible," "hidden," "completely out of sight," "conceal your deafness," "hear in secret," "unnoticed even by your closest friends," "no one will know you are hard of hearing," "your hearing loss is your secret," "no one need know you are wearing a hearing aid," or by any other words, terms, or expressions of similar import, that any hearing aid or part thereof which is not completely concealed when worn by any user is invisible or cannot be seen.

(b) It is also an unfair trade practice to represent, through use of such words and phrases as "no button shows in the ear," or "no unsightly cord dangling from your ear," or by any other words or phrase of similar import, that any hearing aid devices which employ an ear mold or tube leading to the ear, or bone conduction device behind or near the ear, include nothing worn in or near the ear, or leading to the ear. [Rule 7]

§ 214.8 *Deception as to availability of suitable batteries.* It is an unfair trade practice for any member of the industry to represent that only batteries sold by such industry member or other specified persons or concerns, or bearing a specified brand, label, or other identifying mark, are suitable for use in a particular type or make of hearing aid, when such is not the fact. (See also §§ 214.12 and 214.14.) [Rule 8]

§ 214.9 *Deception respecting novelty of products.* (a) In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice to use any advertisement or other representation which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers into the belief that any such product, or part or accessory thereof, is a new invention or involves a new mechanical or scientific principle, when such is not the fact.

(b) Representations of the following or similar type, when not fully justified by the facts, are among those inhibited by this section: "Amazing new discovery," "revolutionary new invention," "radically new and different," "sensational new laboratory development," "remarkable new electronic device," "brand-new invention," "marvelous new hearing invention," and "new scientific aid." [Rule 9]

§ 214.10 *Deception as to used or rebuilt products.* (a) It is an unfair trade practice for any industry member to represent, directly or indirectly, that any industry product or part thereof is new, unused, or rebuilt, when such is not the fact.

(b) In the marketing of industry products which are second-hand or rebuilt, or which contain second-hand or rebuilt parts, it is an unfair trade practice to fail to make full and nondeceptive disclosure, by a conspicuous tag or label firmly attached to the products, and in all advertising and promotional literature relating thereto, of the fact:

(1) That such products are second-hand, rebuilt, or contain second-hand or rebuilt parts, as the case may be, when such products have the appearance of being new or

(2) That the rebuilding of rebuilt products was done by other than the original manufacturer, when such is the case. [Rule 10]

§ 214.11 *Deception respecting tests, acceptance, or approval.* In the sale, distribution, or promotion of hearing aids, it is an unfair trade practice for any member of the industry:

(a) To represent, or to use any seals, emblems, shields, or other insignia which represent or imply in any manner, that a hearing aid has been tested, accepted, or approved by any individual, concern, organization, group, or association, unless such hearing aid has in fact been tested in such manner as reasonably to insure the quality and performance of the instrument in relation to the intended usage thereof and the fulfillment of any material claims made, implied, or intended to be supported by such representation or insignia, or

(b) To represent that a hearing aid tested, accepted, or approved by any individual, concern, organization, group, or association has been subjected to tests based on more severe standards of performance, workmanship, and quality than is in fact true; or

(c) To make any other false, misleading, or deceptive representation respecting the testing, acceptance, or approval of a hearing aid by any individual, concern, organization, group, or association. [Rule 11]

§ 214.12 *Arrangements to exclude sale of competitors' products.* It is an unfair trade practice for any member of the industry to sell or contract for the sale of any industry products, whether patented or unpatented, for use or resale, or to fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement, or understanding that the purchaser thereof shall not use or deal in new, used, or rebuilt products of a competitor or competitors of such industry member where the effect of such sale or contract for sale, or such condition, agreement, or understanding, may be to substantially lessen competition or tend to create a monopoly in any line of commerce. [Rule 12]

§ 214.13 *Prohibited forms of trade restraints (unlawful price fixing, etc.)*[1] It is an unfair trade practice for any member of the industry, either directly or indirectly, to engage in any planned common course of action, or to enter into or take part in any understanding, agreement, combination, or conspiracy, with one or more members of the industry, or with any other person or persons, to fix or maintain the price of any goods or otherwise unlawfully to restrain trade; or to use any form of threat, intimidation, or coercion to induce any member of the industry or other person or persons to engage in any such planned common course of action, or to become a party to any such understanding, agreement, combination, or conspiracy. [Rule 13]

§ 214.14 *Defamation of competitors or false disparagement of their products.* The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the products of competitors in any respect, or of their business methods, selling prices, values, credit terms, policies, or services, is an unfair trade practice.

NOTE: The use of "bait" or "blind" advertisements as a means of accomplishing such defamation or false disparagement is deemed to be within the inhibitions of this section as well as the use of any other means of practicing such prohibited defamation or disparagement.

[Rule 14]

§ 214.15 *Imitation or simulation of trade-marks, trade names, etc.* The imi-

[1] The inhibitions of this section are subject to Public Law 542, approved July 14, 1952, 66 Stat. 632 (the McGuire Act) which provides that with respect to a commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, a seller of such a commodity may enter into a contract or agreement with a buyer thereof which establishes a minimum or stipulated price at which such commodity may be resold by such buyer when such contract or agreement is lawful as applied to intrastate transactions under the laws of the State, Territory, or territorial jurisdiction in which the resale is to be made or to which the commodity is to be transported for such resale, and when such contract or agreement is not between manufacturers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other.

tation or simulation of the trade-marks, trade names, brands, or labels of competitors, or of the exclusively owned designs of competitors which have not been directly or by operation of law dedicated to the public, with the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers, is an unfair trade practice. [Rule 15]

§ 214.16 *Procurement of competitors' confidential information by unfair means and wrongful use thereof.* It is an unfair trade practice for any member of the industry to obtain information concerning the business of a competitor by bribery of an employee or agent of such competitor, by false or misleading statements or representations, by the impersonation of one in authority, or by any other unfair means, and to use the information so obtained so as substantially to injure competition or unreasonably restrain trade. [Rule 16]

§ 214.17 *Unfair threats of infringement suits.* The circulation of threats of suit for infringement of patents or trademarks among customers or prospective customers of competitors, not made in good faith but for the purpose or with the effect of harassing or intimidating such customers or prospective customers or of unduly hampering, injuring, or prejudicing competitors in their business, is an unfair trade practice. [Rule 17]

§ 214.18 *Inducing breach of contract.* Inducing or attempting to induce the breach of existing lawful contracts between competitors and their dealers, customers, or suppliers, or interfering with or obstructing the performance of any such contractual duties or services under any circumstances having the capacity and tendency or effect of substantially injuring or lessening present or potential competition, is an unfair trade practice. [Rule 18]

§ 214.19 *Enticing away employees of competitors.* Knowingly enticing away employees or sales representatives of competitors under any circumstances having the capacity and tendency or effect of substantially injuring or lessening present or potential competition is an unfair trade practice; *Provided,* That nothing in this section shall be construed as prohibiting employees from seeking more favorable employment, or as prohibiting employers from hiring or offering employment to employees of competitors in good faith and not for the purpose of injuring, destroying, or preventing competition. [Rule 19]

§ 214.20 *Commercial bribery*—(a) *In selling or marketing.* It is an unfair trade practice for a member of the industry, directly or indirectly, to give, or offer to give, or permit or cause to be given, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase products manufactured or sold by such industry member or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors.

(b) *In purchasing supplies.* It is an unfair trade practice for any member of the industry, directly or indirectly, to bribe an employee or agent of a supplier, without the knowledge of the supplier, to induce the supplier to discriminate in favor of such member of the industry over other purchasers from said supplier, with the effect of thereby unduly hampering a competitor of such member in his business and destroying or substantially lessening competition. (See also § 214.22 (e) relative to procurement of illegal discrimination in price.) [Rule 20]

§ 214.21 *Selling below cost.* (a) The practice of selling products of the industry at a price less than the cost thereof to the seller, with the intent or purpose, and where the effect may be, to injure, suppress, or stifle competition or tend to create a monopoly in the production or sale of such products, is an unfair trade practice.

(b) As used in this section the term "cost" means the total cost to the seller, including the costs of acquisition, processing, preparation for marketing, sale, and delivery. All elements recognized by good accounting practice as proper elements of such cost shall be included in determining cost under this section. The costs referred to in the section are actual costs of the respective seller and not some other figure or average costs in the industry determined by an industry cost survey or otherwise.

(c) This section is not to be construed as prohibiting all sales below cost, but only such selling below the seller's cost as is resorted to and pursued with the wrongful intent or purpose referred to and where the effect may be to injure, destroy, or prevent competition, or tend to create a monopoly. [Rule 21]

§ 214.22 *Prohibited discrimination*[2]— (a) *Prohibited discriminatory prices, or rebates, refunds, discounts, credits, commissions, etc., which effect unlawful price discrimination.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, commission, or other form of price differential, where such rebate, refund, discount, credit, commission, or other form of price differential, effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce, and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided, however*

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;

(2) That nothing contained in this section shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the different methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing contained in this section shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing contained in this section shall prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) *Prohibited brokerage and commissions.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.* It is an unfair trade practice for any member of the industry engaged in commerce to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the

[2] As used in § 214.22, the term "commerce" means "trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States."

distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all competing purchasers on proportionally equal terms.

(e) *Inducing or receiving an illegal discrimination in price.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by the provisions of paragraphs (a) to (d) of this section.

(f) *Exemptions.* The inhibitions of this section shall not apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit.

(g) *Purchases by U. S. Government; applicability of Robinson-Patman Anti-discrimination Act to same.* In an opinion submitted to the Secretary of War under date of December 28, 1936, the U. S. Attorney General advised that the Robinson - Patman Antidiscrimination Act "is not applicable to Government contracts for supplies." (39 Opinions, Attorney General 539.)

NOTE: In complaint proceedings charging discrimination in price or services or facilities furnished, and upon proof having been made of such discrimination, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged; and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however,* That nothing contained in this section shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor. See section 2 (b), Clayton Act.

[Rule 22]

§ 214.23 *Aiding or abetting use of unfair trade practices.* It is an unfair trade practice for any person, firm, or corporation to aid, abet, coerce, or induce another, directly or indirectly, to use or promote the use of any unfair trade practice specified in this part, or of any other unfair method of competition or unfair or deceptive act or practice. [Rule 23]

GROUP II

General statement. Compliance with trade practice provisions embraced in §§ 214.101 to 214.104 is considered to be conducive to sound business methods and is to be encouraged and promoted individually or through voluntary cooperation exercised in accordance with existing law. Nonobservance of §§ 214.101 to 214.104 does not per se constitute violation of law. Where, however, the practice of not complying with such sections is followed in a manner as to result in unfair methods of competition or unfair or deceptive acts or practices in commerce, corrective proceedings in respect thereto may be instituted by the Commission as in the case of violation of §§ 214.1 to 214.23.

§ 214.101 *Information as to care, use, and maintenance of products.* (a) The practice, by manufacturers, distributors, or dealers, of furnishing and disseminating, through advertisements, bulletins, or other publicity, accurate and nondecepitive information as to the proper care and use of their hearing aids or of parts and accessories therefor, is approved and recommended as a desirable practice to follow in the interest of enabling customers to obtain and enjoy full benefits of the desirable qualities and service of such instruments.

(b) To assist purchasers or users in selecting and purchasing batteries which are parts or accessories for hearing aids, and to prevent misunderstanding, confusion, and deception, it is also important that each of such batteries be marked by the manufacturer thereof in conformity with the provisions of section 7 of the Circular of the National Bureau of Standards C435, issued February 18, 1942, so as to reveal the source of such battery, its size or number; also, the date of manufacture, or expiration of a guarantee period, indicated as such. [Rule A]

§ 214.102 *Training of sales, service, and other employees.* The practice by manufacturers, distributors, and dealers of adequately training employees in the fitting and servicing of hearing aids is approved and recommended as a desirable practice to follow in the interest of enabling customers to obtain and enjoy the fullest possible benefit from the use of such instruments. [Rule B]

§ 214.103 *Assistance to users in servicing hearing aids.* Manufacturers and dealers are encouraged to provide all possible facilities and services to the users of their hearing aids to insure maximum assistance and satisfaction to such users of the respective instruments. The sale of hearing aids without reasonably adequate provision for properly servicing the instruments to the extent necessary for satisfactory use is discouraged. [Rule C]

§ 214.104 *Cost records.* It is the judgment of the industry that each member should independently keep proper and accurate records for determining his costs. [Rule D]

Promulgated by the Federal Trade Commission August 7, 1953.

Issued: August 4, 1953.

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 53-6925; Filed, Aug. 6, 1953; 8:51 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53308]

PART 3—DOCUMENTATION OF VESSELS

YACHT PRIVILEGES AND OBLIGATIONS, CRUISING LICENSES FOR FOREIGN YACHTS

The purpose of the following amendments is to show the authority of the Secretary of the Treasury to make determinations necessary as a prerequisite to the extension of reciprocal privileges by the Commissioner of Customs to certain foreign yachts and to add Cuba to the list of countries found to grant such privileges.

1. Section 3.53 (d), Customs Regulations of 1943 (19 CFR 3.53 (d)), is amended to read as follows:

(d) A cruising license [39] may be issued to a yacht of a foreign country only if it has been made to appear to the satisfaction of the Secretary of the Treasury that yachts of the United States are allowed to arrive at and depart from ports in such foreign country and to cruise in the waters of such ports without entering or clearing at the customhouse thereof and without the payment of any charges for entering or clearing, dues, duty per ton, tonnage taxes, or charges for cruising licenses. It has been made to appear to the satisfaction of the Secretary of the Treasury that yachts of the United States are granted such privileges in the following countries:

Bahama Islands.	Greece.
Canada.	Honduras.
Cuba.	Jamaica.
Great Britain.	Liberia.

2. Footnote 39 appended to § 3.53 (d) is amended by adding the following paragraph:

The Secretary of the Treasury was designated by section 1 of Executive Order 10289 (3 CFR, 1951 Supp., ch. II) to perform the function of the President to make determinations necessary as a prerequisite to the extension of reciprocal privileges under the above-quoted statute.

(R. S. 161, secs. 2, 3, 23 Stat. 118, as amended, 119, as amended; 5 U. S. C. 22, 46 U. S. C. 2, 3)

D. B. STRUBINGER, *Acting Commissioner of Customs.*

Approved: August 3, 1953.

H. CHAPMAN ROSE, *Acting Secretary of the Treasury.*

[F. R. Doc. 53-6928; Filed, Aug. 6, 1953; 8:52 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter I—Home Loan Bank Board, Housing and Home Finance Agency

Subchapter E—Home Owners' Loan Corporation

NOTE: For notice of dissolution of the Home Owners' Loan Corporation and information as to the time for, and manner of, filing claims against the Corporation, see F. R. Doc. 53-6923, in the Notices section, *infra.*

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 6—UNITED STATES GOVERNMENT LIFE INSURANCE

PART 8—NATIONAL SERVICE LIFE INSURANCE

MISCELLANEOUS AMENDMENTS

1. In Part 6, § 6.181 is revised to read as follows:

§ 6.181 *Grace period for payment of first premium payable on United States Government life insurance and total disability insurance after termination of a total and permanent disability insurance award and a total disbility insurance award.* United States Government life insurance and total disability insurance shall not lapse during the period between the termination of a total and permanent disability insurance award or the termination of a total disability insurance award and 31 days from the due date of the first premium payable after such termination or 31 days from date of notice mailed to the insured's last address of record advising of the termination of the award and the amount and due date of the first premium so payable, whichever is the later date. If the premium or premiums be not paid within said 31 days, the insurance policy and the total disability provision shall lapse in accordance with the terms and conditions thereof and shall otherwise be subject to the terms and conditions of said policy and provision. A letter by registered mail will be mailed to the insured at his last address of record advising of the due date of the first premium payable after termination of the award, and of the amount of insurance, and the amount due as premiums. The mailing of such letter to the insured's last address of record will be sufficient notice within the provisions of this section, and the failure of the insured to furnish a correct current address at which mail will reach him promptly shall not be grounds for an extension of time under this section.

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9, sec. 6, 65 Stat. 35; 38 U. S. C. 11a, 426, 707, 855. Interpret or apply secs. 300, 301, 43 Stat. 624, as amended; 38 U. S. C. 511, 512)

2. In Part 8, paragraph (a) of § 8.42 is amended to read as follows:

§ 8.42 *Discontinuance of premium waiver* (a) The Administrator may require proof of continuance of total disability at any time he may deem same necessary. In the event it is found that an insured is no longer totally disabled, the waiver of premiums shall cease as of the date of such finding, and the insurance may be continued by payment of premiums, the due date of the first premium payable being the next regular monthly due date of the premium under the policy. The insurance shall not lapse prior to the date of expiration of the grace period allowed for the payment of such premium or prior to the expiration of 31 days after date of notice to the insured of the termination of the premium waiver, whichever is the later date. Such notice shall be sent by registered mail and sufficient notice will be deemed to have been given when such letter has been placed in the mails by the Veterans' Administration: *Provided*, That the Administrator may grant an additional period of not more than 31 days for payment of the premiums in any case in which it is shown that the failure to make payment within 31 days after notice as defined in this paragraph was due to circumstances beyond the insured's control; but the premiums in any such case must be paid during the lifetime of the insured. The failure of the insured to furnish a correct current address at which mail will reach him promptly shall not be grounds for a further extension of time for payment of premiums under this section.

* * * * *

(Sec. 608, 54 Stat. 1012, as amended, sec. 6, 65 Stat. 35; 38 U. S. C. 803, 855. Interpret or apply sec. 602, 54 Stat. 1009, as amended; 38 U. S. C. 802)

This regulation is effective August 7, 1953.

[SEAL] H. V. STIRLING,
Acting Administrator.

[F. R. Doc. 53-6900; Filed, Aug. 6, 1953; 8:48 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 903]

NEW MEXICO

RESERVING LANDS WITHIN LINCOLN NATIONAL FOREST FOR USE OF THE FOREST SERVICE

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U. S. C. 473) and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F R. 4831) it is ordered as follows:

Subject to valid existing rights, the following-described public lands within the Lincoln National Forest in New Mexico are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws but not the mineral-leasing laws, and reserved for use of the Forest Service, Department of Agriculture, as an administrative site and a recreation area, respectively:

NEW MEXICO PRINCIPAL MERIDIAN

CHEROKEE HILL ADMINISTRATIVE SITE

T. 11 S., R. 13 E.,
Sec. 25, SE¼SE¼.
T. 11 S., R. 14 E.,
Sec. 30, S½SW¼.

The area described contains 120.34 acres.

CHEROKEE HILL RECREATION AREA

T. 11 S., R. 13 E.,
Sec. 36, NE¼NE¼, NW¼NE¼, and NE¼NW¼.

The area described contains 120 acres.

This order shall take precedence over, but shall not otherwise affect the existing reservation of the lands for National-forest purposes.

ORRIE LEWIS,
Assistant Secretary of the Interior

JULY 31, 1953.

[F. R. Doc. 53-6936; Filed, Aug. 6, 1953; 8:47 a. m.]

[Public Land Order 903]

MONTANA AND SOUTH DAKOTA

RESERVATION OF LANDS WITHIN NATIONAL FORESTS AS ADMINISTRATIVE SITES AND A RECREATION AREA

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U. S. C. 473) and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F. R. 4831) it is ordered as follows:

Subject to valid existing rights, the public lands within the following-described areas within certain national forests as hereinafter designated are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining laws but not the mineral-leasing laws, and reserved as administrative sites and a recreation area, as indicated:

MONTANA—PRINCIPAL MERIDIAN

BEAVERHEAD NATIONAL FOREST

Divide Creek Administrative Site

T. 12 S., R. 4 W.,
Sec. 13, S½NW¼ and N½SW¼.

The area described contains 160 acres.

Elkhorn Administrative Site

T. 4 S., R. 12 W.,
Sec. 29 W½SE¼, E½SW¼ and SE¼NW¼.

The area described contains 200 acres.

Hogan Administrative Site

T. 1 S., R. 18 W.,
Sec. 30, S½NE¼ of lot 3, SE¼ of lot 3, NE¼ of lot 4, S½NW¼ of lot 4, S½ of lot 4, S½NE¼SW¼ and S½N½NE¼SW¼.
Sec. 31, NW¼ of lot 1.
T. 1 S., R. 19 W.,
Sec. 25, S½SE¼ of lot 4;
Sec. 36, E½ of lot 1.

The areas described aggregate approximately 114 acres.

Mystic Administrative Site

T. 1 N., R. 16 W.,
Sec. 2, E½SW¼NE¼ and that part of the SE¼NE¼ west of Mystic Lake.

The area described contains approximately 40 acres.

Ruby Administrative Site

T. 9 S., R. 3 W.,
Sec. 27, W½SW¼SW¼.
Sec. 23, S½SE¼.
Sec. 34, W½NW¼NW¼.

The areas described aggregate 120 acres.

Schultz Creek Administrative Site

T. 1 N., R. 18 W.,
Sec. 36, S½NE¼SE¼ and N½SE¼SE¼.

The areas described aggregate 40 acres.

Wall Creek Administrative Site

T. 9 S., R. 1 W.,
Sec. 27, S½SE¼SW¼SE¼ and S½SE¼SE¼.

Sec. 34, N½NE¼, N½SW¼NE¼ and NE¼NW¼.

The areas described aggregate 165 acres.

Notch Administrative Site

T. 11 S., R. 4 W.,
Sec. 7, NE¼NW¼.

The area described contains 40 acres.

Jack Creek Administrative Site

T. 6 S., R. 2 E.,
Sec. 6, lots 3, 4, 5, 6, 11 and 12.

The areas described aggregate 182.34 acres.

Bear Creek Administrative Site

T. 8 S., R. 1 E.,
Sec. 12, NW¼.

The area described contains 160 acres.

Smead Administrative Site

T. 4 S., R. 2 W.,
Sec. 28, NE¼SW¼ and SE¼.

The area described contains 200 acres.

Canyon Creek Administrative Site

T. 2 S., R. 10 W.,
Sec. 7, SE¼SW¼NE¼, S½SE¼NE¼, NW¼NE¼SE¼ and NW¼SE¼.

The areas described aggregate 80 acres.

Reservoir Lake Administrative Site

T. 8 S., R. 15 W.,
Sec. 20, E½W½SE¼SE¼ and E½SE¼SE¼,
Sec. 21, W½W½SW¼SW¼,
Sec. 28, W½NW¼NW¼NW¼,
Sec. 29, NE¼NE¼NE¼ and E½NW¼NE¼NE¼.

The areas described aggregate 60 acres.

Lyon Administrative Site

T. 11 S., R. 1 E.,
Sec. 3, lots 7 and 8;
Sec. 10, lot 2, N½N½ of lot 3, NW¼NW¼.

The areas described aggregate approximately 132 acres.

Birch Creek Administrative Site

T. 5 S., R. 10 W.,
Sec. 8, E½NE¼, S½NW¼NE¼, S½N½NW¼NE¼, N½SW¼NE¼, E½SW¼SW¼NE¼, SE¼SW¼NE¼, E½SE¼NE¼NW¼, E½NE¼SE¼NW¼ and SE¼,
Sec. 9, W½NW¼ and SW¼,
Sec. 16, N½NW¼NE¼NW¼, N½NW¼NW¼ and SW¼NW¼NW¼,
Sec. 17, NE¼NE¼ and E½NW¼NE¼.

The areas described aggregate 650 acres.

Landon Administrative Site

T. 12 S., R. 1 W., unsurveyed,
Beginning at the northeast corner sec. 6, T. 13 S.,
R. 1 W., thence
W., 9.30 chains;
N. 27°15′ E., 20.18 chains.
N. 8°15′ E., 18.00 chains;
E., 20.00 chains;
S., 35.75 chains;
W., 22.70 chains to point of beginning.

The tract described contains 80.14 acres.

Black Butte Administrative Site

T. 10 S., R. 2 W., unsurveyed,
Beginning at a point from which the established southeast corner of sec. 34 on the surveyed township line between Tps. 10 and 11 S., R. 2 W., bears S. 25°00′ E. 37.00 chains, thence
S. 47°00′ E., 15.00 chains;
S. 34°30′ W., 9.00 chains;
N. 68°30′ W., 15.25 chains;
N. 35°00′ E., 14.60 chains to point of beginning.

The tract described contains 16.50 acres.

Potosi Administrative Site

T. 3 S., R. 3 W., unsurveyed,
Beginning at corner No. 5 of mineral Survey No. 3058, thence,
N. 58°10′ W., 14.00 chains;
S. 48°00′ W., 40.97 chains;
S. 42°00′ E., 19.94 chains;
N. 40°00′ E., 45.00 chains to point of beginning.

The tract described contains 72.87 acres.

Rock Creek Administrative Site

T. 5 S., R. 3 W.,
Sec. 10, NW¼SE¼.

The area described contains 40 acres.

Mill Gulch Administrative Site

T. 5 S., R. 3 W.,
Sec. 10, NW¼SW¼.

The area described contains 40 acres.

HELENA NATIONAL FOREST

Indian Meadows Administrative Site

T. 15 N., R. 8 W.,
Sec. 3, lot 5, W½ of lot 6 and SE¼ of lot 6;
Sec. 4, E½ of lot 8.

The areas described aggregate 90 acres.

SOUTH DAKOTA—BLACK HILLS MERIDIAN

HARNEY NATIONAL FOREST

Haselrodt Recreation Area

T. 4 S., R. 5 E.,
Sec. 10, E½NE¼, SE¼NW¼NE¼, E½E½SW¼SW¼NE¼, E½SW¼NE¼, E½E½NW¼NW¼SE¼, NE¼NW¼SE¼, and N½NE¼SE¼.

The areas described aggregate 145 acres.

This order shall be subject to existing withdrawals for power-site purposes and Federal power projects so far as they affect any of the above described lands; and it shall take precedence over, but not otherwise affect, the existing reservations of the lands for national-forest purposes.

ORME LEWIS,
Assistant Secretary of the Interior

JULY 31, 1953.

[F. R. Doc. 53-6894; Filed, Aug. 6, 1953; 8:46 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 10561]

PART 3—RADIO BROADCAST SERVICES

TELEVISION BROADCAST STATIONS; TABLE OF ASSIGNMENTS

In the matter of amendment of § 3.606 *Table of assignments,* rules governing television broadcast stations; Docket No. 10561.

1. The Commission has under consideration its notice of proposed rule making issued on June 29, 1953 (FCC 53-776) and published in the FEDERAL REGISTER on July 7, 1953 (18 F R. 3943) proposing to assign Channel 37 to Melbourne, Florida.

2. The time for filing comments in this proceeding expired July 20, 1953. No comments were filed opposing the assignment of Channel 37 to Melbourne, Florida. The Commission finds that the assignment of Channel 37 to Melbourne would comply with the Commission's rules, and that a finalization of the proposal would serve the public interest.

3. Authority for the adoption of the amendment is contained in sections 4 (i), 301, 303 (c) (d) (f) and (r) and 307 (b) of the Communications Act of 1934, as amended.

4. In view of the foregoing, *It is ordered,* That effective 30 days from publication in the FEDERAL REGISTER, the table of assignments contained in § 3.606 of the Commission's rules and regulations is amended as follows:

Add to Table of Assignments under the State of Florida

	Channel No.
Melbourne	37—

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 307, 48 Stat. 1081, 1082, 1084; 47 U. S. C. 301, 303, 307)

Adopted: July 30, 1953.

Released: July 31, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F R. Doc. 53-6940; Filed, Aug. 6, 1953; 8:55 a. m.]

[Docket No. 10564]

PART 3—RADIO BROADCAST SERVICES

TELEVISION BROADCAST STATIONS; TABLE OF ASSIGNMENTS

In the matter of amendment of § 3.606 *Table of assignments,* rules governing television broadcast stations; Docket No. 10564.

1. The Commission has under consideration its notice of proposed rule making issued on June 29, 1953 (FCC 53-779), and published in the FEDERAL REGISTER on July 7, 1953 (18 F. R. 3944), proposing to assign Channel 66 to Springfield, Ill., and to reserve it for noncommercial educational use.

2. The time for filing comments in this proceeding expired July 20, 1953. No comments were filed opposing the assignment of Channel 66 to Springfield, Ill. The Commission finds that the proposed assignment would comply with the Commission's rules, and that a finalization of the proposal would serve the public interest.

3. Authority for the adoption of the amendment is contained in sections 4 (i) 301, 303 (c), (d), (f) and (r) and 307 (b) of the Communications Act of 1934, as amended.

4. In view of the foregoing, *It is ordered,* That effective 30 days from publication in the FEDERAL REGISTER, the table of assignments contained in § 3.606 of the Commission's rules and regulations is amended by changing the Table of Assignments under the State of Illinois as follows:

	Channel No.
Springfield	2+, 20+, *66+

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 307,

48 Stat. 1081, 1082, 1084; 47 U. S. C. 301, 303, 307)

Adopted: July 30, 1953.

Released: July 31, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6941; Filed, Aug. 6, 1953; 8:55 a. m.]

[Docket No. 10566]

PART 3—RADIO BROADCAST SERVICES

TELEVISION BROADCAST STATIONS; TABLE OF ASSIGNMENTS

In the matter of amendment of § 3.606 *Table of assignments,* rules governing television broadcast stations; Docket No. 10566.

1. The Commission has under consideration its notice of proposed rule making issued on June 29, 1953 (FCC 53-781) and published in the FEDERAL REGISTER on July 7, 1953 (18 F. R. 3945) proposing to assign Channel 4 to Roseburg, Oregon.

2. The time for filing comments in this proceeding expired July 20, 1953. No comments were filed opposing the assignment of Channel 4 to Roseburg, Oregon. The Commission finds that the assignments as proposed would comply with the Commission's rules, and that a finalization of the proposal would serve the public interest.

3. Authority for the adoption of the amendment is contained in sections 4 (i) 301, 303 (c) (d) (f) and (r) and 307 (b) of the Communications Act of 1934, as amended.

4. In view of the foregoing, *it is ordered,* That affective 30 days from publication in the FEDERAL REGISTER, the table of assignments contained in § 3.606 of the Commission's rules and regulations is amended by changing the Table of Assignments under the State of Oregon as follows:

	Channel No.
Medford	5
Roseburg	4+ 28+

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 307, 48 Stat. 1081, 1082, 1084; 47 U. S. C. 301, 303, 307)

Adopted: July 30, 1953.

Released: July 31, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6942; Filed, Aug. 6, 1953; 8:55 a. m.]

[Docket No. 10377]

PART 7—STATIONS ON LAND IN THE MARITIME SERVICE

PART 8—STATIONS ON SHIPBOARD IN THE MARITIME SERVICE

MISCELLANEOUS AMENDMENTS

In the matter of amendment of Parts 7 and 8 of the Commission's rules to delete authority for operation by coast stations, ship stations, and aircraft stations on currently assignable frequencies for telephony within the band 4000 kc to 18000 kc; and to include authority for operation by such stations on other frequencies for telephony within the same band; Docket No. 10377.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 29th day of July 1953;

The Commission having under consideration that portion of its proposals in the above-entitled matter embodied in its second further notice of proposed rule making which related to dates of availability and deletion of certain of the high seas frequencies; and

It appearing, that, in accordance with the requirements of section 4 (a) of the Administrative Procedure Act the aforementioned second further notice of proposed rule making, which made provision for the submission of written comments by interested parties, was duly published in the FEDERAL REGISTER on June 2, 1953 (18 F R. 3152) and that the period provided for the filing of comments has now expired; and

It further appearing, that no objections to the proposed amendments have been filed; and

It further appearing, that the public interest, convenience, and necessity will be served by the amendments herein ordered, the authority for which is contained in section 303 (c) (f) and (r) of the Communications Act of 1934, as amended;

It is ordered, That effective September 1, 1953, Parts 7 and 8 of the Commission's rules are amended as set forth below.

(Sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Released: August 3, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

1. Section 7.304 (a) is amended to change that portion of the table of frequencies above 2782 kc to read as follows:

4162.5	8311.5
4280	8040
4282.5 Great Lakes only	12,810 [1a]
4287.5	13,157.5
4406.9	13,172.9
4420.7	13,180.6
4752.5	13,196
6240	17,030 [1a]
6455	17,120 [1a]
6470 Great Lakes only	17,317.5
8550	17,340.6
8585 Great Lakes only	17,356
8630	22,677.5
8768.9	22,692.9
	22,716

and delete the text of footnote 1a and substitute the following text:

[1a] Not available after October 1, 1953.

2. Section 7.304 (d) is amended by deleting subparagraph (6).

3. Section 7.304 (d) (8) is amended by revising the first sentence thereof to read as follows: "(8) The frequencies 6,240 and 6,455 kc are authorized for use by coast stations serving vessels on the Mississippi River and connecting inland waters only (except the Great Lakes) upon the express condition that interference shall not be caused to the service of any station which, in the discretion of the Commission, may have priority on the frequency or frequencies used for the service to which interference is caused."

4. Section 7.304 (d) (10) is amended to read as follows:

(10) Use of the frequency 8550 kc is authorized upon the express condition that interference shall not be caused to the intercontinental aeronautical services.

5. Section 7.306 (a) (1) is amended by revising the table of frequencies to read as follows:

2060	San Francisco, Calif.	2119
2080	Hawaiian Islands	2124
2090	New York, N. Y.	2183
4406.9	do	4457.5
4420.7	Hawaiian Islands	4492.5
4280	San Francisco, Calif.	4067
4752.5	New York, N. Y.	4457.5

6. Section 7.306 (a) (2) is amended to read as follows:

(2) Working frequencies between 5000 kc and 30 Mc:

8359
8630
12,810 [1a]
17,030 [1a]
17,120 [1a]

[1a] Not available after October 1, 1953.

Additional working carrier frequencies in this band:

Coast station transmitting frequency [1] (kc.)	Coast station location in the vicinity of—	Coast station receiving carrier frequency (kc.)
8311.5	New York, N. Y.	8222.3.
8768.9	do	8219.7.
13190.6	do	12295.8.
13157.5	do	12257.3.
13180.6	San Francisco, Calif.	13220.
13172.9	Hawaii	16471.9.
17317.5	New York, N. Y.	17010 & 17049
17356.0	do	16525.8.
17340.6	San Francisco, Calif.	17019.
22677.5	New York, N. Y.	22027.3.
22692.0	San Francisco, Calif.	22042.7.
22716	New York, N. Y.	22065.8.

[1] These frequencies are those which may be specified in applications for coast stations authorizations.

7. Section 7.306 (b) is amended by revising that portion of the table above 2598 kc to read as follows:

Coast station transmitting carrier frequency (kc.)	Coast station located in the vicinity of—	Coast station receiving carrier frequency (kc.)
4420.7	Hawaiian Islands	4492.5
4280	San Francisco, Calif.	4067
4282.5	Great Lakes area	4422.5
4287.5	Miami, Fla.	4402.5
4752.5	New York, N. Y.	4457.5
4406.9	do	4457.7
6470	Great Lakes	6600
8585	do	8359

also by revising the second undesignated paragraph following this table to read as follows:

In addition to the foregoing frequencies below 30 Mc, the frequency 2572 kc is assignable for telephony to Class II public coast stations at locations where its use will not cause interference to the

service of any station which, in the discretion of the Commission, may have priority on the frequencies used for the service to which interference is caused.

8. Section 7.306 (c) is amended by deleting the frequency 11090 kc from the table and footnote 5a.

9. Section 8.351 (a) is amended to revise that portion of the table of frequencies above 2782 kc to read as follows:

4067		12,357.3
4087.7		12,395.8
4162.5		13,210 [2]
4402.5		13,220
4422.5	Great Lakes only	13,230 [2]
4457.5		13,245 [2]
6240		13,275 [2]
6455		16,471.9
6660 [1]		16,525.8
8219.7		17,600 [2]
8262.3		17,610
8810 [2]		17,620 [2]
8820 [2]		17,640 [2]
8840		17,660 [2]
8850 [2]		22,027.3
		22,042.7
		22,065.8

[1] Not available after November 1, 1953 except Great Lakes.
[2] Not available after October 1, 1953.
[3] Not available after January 15, 1954 except Great Lakes.

10. Section 8.351 (d) (11) is amended by deleting the reference to the frequency 11090 kc from this subparagraph so that subparagraph (11) reads as follows:

(11) The frequencies 6240 kc and 6455 kc are authorized for use exclusively on the Mississippi River and connecting inland waters (except the Great Lakes) upon the express condition that interference shall not be caused to the service of any station which may have priority on the frequency or frequencies used for the service to which interference is caused.

11. Section 8.354 (a) (1) is amended by revising the frequency table above 2572 kc to read as follows:

Ship station transmitting carrier frequency (kc.)	Coast station(s) located in vicinity of—	Ship station receiving carrier frequency (kc.)
4402.5 [3]	Miami, Fla.	4287.5
4402.5	Hawaiian Islands	4420.7
4457.5	New York, N. Y.	4752.5
4087.7	do	4406.9
4067	San Francisco, Calif.	4280
4422.5	Great Lakes	4282.5

and by deleting footnotes 6 and 7.

12. Section 8.355 (a) (1) is amended by revising the table of frequencies in subparagraph (1) to read as follows:

6660	13,245
8219.7 [5a]	13,275
8262.3 [5a]	16,471.9 [5b]
8810	16,525.8 [5a]
8820	17,600
8840	17,610
8850	17,620
12,357.3 [5a]	17,640
12,395.8 [5a]	17,660
13,210	22,027.3
13,220	22,042.7
13,230	22,065.8

and by adding a new footnote 5b to read as follows:

[5b] For use in communication with public coast station located in the Territory of Hawaii.

13. Delete the second undesignated paragraph and table of additional carrier frequencies in § 8.355 (a) (1)

14. Section 8.355 (a) (3) is amended by deleting in the table of frequencies the frequency 11,090 kc and footnote 5.

15. Section 8.366 (1) (2) is amended by deleting the reference to the frequency 11,090 kc from subparagraph (2) and amending the subparagraph to read as follows:

(2) Ship stations on the Mississippi River and connecting inland waters, authorized to use one or more of the carrier frequencies 6240, 6455 and 8840 kc pursuant to § 8.351 (d) (11) and (12) shall, during the period from local sunset to local sunrise, not transmit on these frequencies whenever the necessary communication can be effected on authorized frequencies below 5000 kc or above 30 Mc.

16. Table 3 of Appendix III of Part 8 of the rules is amended as follows:

Add the following frequencies:

16 Mc

Coast	Ship
17,302.1	16,471.9

[F. R. Doc. 53-6939; Filed, Aug. 6, 1953; 8:55 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 911]

[Docket No. AO-244]

HANDLING OF MILK IN CENTRAL MISSISSIPPI MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900) a public hearing was conducted at Jackson, Mississippi, during January 6–14, 1953, pursuant to notice thereof which was issued on December 15, 1952 (17 F. R. 11599)

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Administrator, Production and Marketing Administration, on June 17, 1953, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision and opportunity to file written exceptions thereto which was published in the FEDERAL REGISTER on June 23, 1953 (18 F. R. 3584)

Within the period reserved for exceptions the producers' association and certain handlers filed exceptions to certain of the findings, conclusions and actions recommended by the Assistant Administrator. In arriving at the findings, conclusions, and regulatory provisions of this decision, each of such exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. The the extent that the findings, conclusions, and actions decided upon herein are at variance with the exceptions, such exceptions are overruled.

Rulings contained in the recommended decision upon proposed findings and conclusions submitted by interested persons are confirmed except as modified by the findings and conclusions set forth herein. To the extent that findings and conclusions proposed by interested persons and not ruled upon in the recommended decision are inconsistent with the findings and conclusions contained herein, the specific or implied requests to make such findings and reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions herein set forth.

The material issues of record related to:

1. Whether the handling of milk in the market is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk or its products;

2. Whether marketing conditions justify the issuance of a marketing agreement or order; and

3. If an order is issued what its provisions should be with respect to:

(i) The scope of regulation;

(ii) The classification of milk;

(iii) The level and method of determining class prices;

(iv) The method to be used in distributing proceeds to producers; and

(v) Administrative provisions.

Findings and conclusions. Upon the evidence adduced at the hearing and the record thereof, it is hereby found and concluded that:

1. *Character of commerce.* Milk which would be regulated under the proposed marketing agreement and order is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk or its products.

The marketing area specified in the proposed order, hereinafter known as the Central Mississippi marketing area, includes all of the territory within the counties of Hinds, Madison, Rankin, Warren, Jones, Marion, and the major portion of Forrest County, all located in

the State of Mississippi. Approximately 700 dairy farmers, located in 31 Mississippi counties, supply more than 80 million pounds of milk annually to fluid milk plants primarily for disposition to consumers in this area.

This milk is purchased in competition with milk which is marketed outside the State of Mississippi and is sold in competition with milk or milk products produced in other states. Handlers who would be regulated under the proposed order find it necessary in order to fill the needs of their fluid or Class I markets to supplement the milk received from producers with milk or products of milk from outside sources. These supplemental supplies are handled in the same plants and commingled with producer milk. The supplemental supplies may, and do, come from sources outside the State of Mississippi. The record discloses that handlers serving the Central Mississippi marketing area import dry milk solids to supplement local supplies. Such imports are used primarily to produce, or build up solids content of, buttermilk and chocolate milk drinks. These two products made up more than 12 percent of the total sales of fluid milk and fluid milk products by handlers. The State Health Regulations require that milk solids used for such purposes be derived from Grade A milk. At the present time plants located in the Chicago and Wisconsin areas have been approved by the Mississippi Health Department as sources of supply. Complete data on the volume of nonfat solids which is used by handlers in the proposed marketing area are not available. The record shows however, that nearly all the handlers are using such supplemental supplies and that their use is more frequent during the fall and winter months when producer receipts are lowest. A comparison of record data showing receipts and sales in the different sections of the proposed marketing area indicates that substantial quantities of nonfat solids are used. In the Jackson market, for example, during January and the months of October through December of 1951, handlers sold an average of 230,000 pounds monthly of fluid milk and fluid milk products, including cream, in excess of their total receipts of fluid milk from producers and plants both in and out of the state. Fluid sales in the Laurel-Ellisville portion of the marketing area also exceeded fluid receipts during three months of 1951. Under the health regulations, such differences would need be derived from nonfat solids from Grade A sources in the Chicago or Wisconsin areas. Although these comparisons do not reflect the full extent of the use of Grade A nonfat solids, they nevertheless show that substantial quantities of milk sold by handlers are derived from interstate sources.

Approvals to ship Grade A milk into Mississippi have been extended by the State Health Department to plants in several States, including Wisconsin, Indiana and Ohio. Health Department officials testified that Grade A bulk milk shipments have been received in the proposed area in the past from these plants when required.

Data summarized by the Farm Credit Administration from voluntary reports of 10 plants located in the States of Wisconsin and Indiana showed that 436,600 pounds of nonfat solids were sold during the first 11 months of 1952 to distributors located in 16 Mississippi cities and towns, which included Vicksburg, Jackson and Laurel. Grade A fluid milk was imported by distributors located in these same areas during the two years prior to the date of the hearing. In 1952 nearly a half million pounds and in 1951 slightly less than one-third of a million pounds of Grade A milk was so imported. It is evident that this milk was either imported by or distributed in competition with milk of handlers serving the Central Mississippi marketing area.

Milk purchased for sale in the proposed marketing area is bought in competition with milk disposed of in other states. During December 1952, there were 700 producers supplying Grade A milk to handlers in the proposed marketing area. Of this number, approximately 360 were located in counties that formed a Grade A milkshed which served plants directly engaged in the interstate shipment of milk. Thus, approximately 50 percent or nearly 40 million pounds of the milk received annually by the handlers' plants serving the proposed marketing area is purchased from Grade A farms in direct competition with plants making interstate shipments of milk. All Mississippi producers of Grade A milk must conform to the health inspection requirements of the State Board of Health, which is uniform throughout the state. It is relatively easy, by virtue of their location and health approval, for such farmers to shift their sales of milk between these alternative outlets in response to prices offered. The record shows that there has been substantial shifting of producers to different plants in those counties where producers have such alternative outlets. Important competition of this nature occurs in the southern portion of the state. Four plants located in the southern portion of the Central Mississippi milkshed supply milk to New Orleans handlers. These plants are regulated under Federal Order No. 42. Another plant located in this same area sends a substantial proportion of its milk to Texas markets for fluid use.

These five plants receive milk from more than 1,200 producers, most of whom are located in Mississippi. More than 400 of these producers are located in Walthall, Lincoln, Forrest, Marion, and Lamar counties. More than 150 Central Mississippi producers are located in these counties.

A Gulf Coast handler who distributes milk on routes extending into Mobile County, Alabama, also competes for milk supplies from producers in the southern portion of the milkshed. Central Mississippi area handlers sell milk to various outlets, including military installations, in competition with Gulf Coast and other distributors located in Alabama.

A plant located in the northeastern portion of the Central Mississippi milkshed sells milk in the current of interstate commerce. This plant, which is operated by a cooperative association of producers, sells some of its milk to Mississippi handlers and much of the remainder goes to distributors in Alabama and Louisiana. This plant receives milk from farmers in four counties where more than 150 producers supplying Central Mississippi handlers are located.

It is evident therefore, that the prices paid by the plants which would be subject to the proposed order are affected by and have a direct effect upon the prices and quantities of fluid milk which is moved in interstate commerce.

Fluid milk handlers compete for milk supplies with nearby manufacturing plants selling manufactured milk products in interstate commerce. There are three such manufacturing plants located in, or adjacent to, the production area from which the Central Mississippi marketing area draws its milk supply. A cheese plant is located in Newton County. A plant engaged in the condensing and drying of milk solids, butter manufacturing and the production of ungraded cream is located in Lincoln County. The parent company of a fluid milk plant, which also manufactures ice cream mix in Jackson, operates a condensery located in Attala County. These manufacturing plants purchase ungraded milk from dairy farmers who are located in the same area that supplies Grade A milk for the marketing area. The products manufactured in these plants are disposed of both in and outside the State of Mississippi.

The record shows that when fluid milk plants located in the proposed marketing area have Grade A milk in excess of their needs for fluid uses, part of such excesses are used in the manufacture of ice cream and ice cream mix and the remainder of such milk is disposed of to manufacturing plants. Ice cream and ice cream mix are not required to be made from Grade A milk under the regulations of the State Board of Health, and therefore, graded milk used for such purposes is in direct competition with ungraded milk. Handlers disposed of approximately 2.5 million pounds of milk and cream derived from Grade A milk to manufacturing plants during the flush production months of 1951, the most recent data available at the time of the hearing. In addition to such milk and other milk purchased from ungraded producers, the plants located in Attala and Lincoln counties also purchased Grade A milk from the New Orleans market during the flush production season with the Attala County plant receiving additional supplies of milk from Tennessee. Thus, milk from the proposed marketing area is commingled at these manufacturing plants with ungraded milk and milk from other areas outside of Mississippi. The products manufactured from such milk are sold in other States and within Mississippi in competition with similar products produced in other States.

It is concluded, therefore, that the record evidence shows that milk which would be regulated under the proposed marketing agreement and order is in the current of interstate commerce and directly burdens, obstructs and affects

interstate commerce in milk and its products.

2. *Marketing conditions.* The issuance of a marketing agreement or order will tend to effectuate the declared policy of the act.

The testimony on marketing conditions and practices in the proposed marketing area was presented at the hearing by three associations representing producer-members in the proposed marketing area. These three associations formed an organization, identified as the Central Sales Committee, in order to coordinate their activities for the purpose of achieving stability of marketing conditions in the area.

The problems encountered by producers in marketing milk and in providing an adequate supply for Central Mississippi are not uncommon in fluid milk markets. The problems, which have resulted in unrest and instability in this area, are similar to those characterestic of the fluid milk industry in the absence of regulations or a well defined marketing plan. Attempts on the part of producers to establish such a plan have been ineffective.

Milk, because of its perishability, must be delivered regularly to the market as it is produced. Farmers cannot retain milk on their farms in order to await favorable price conditions. Production of milk for fluid use, under the sanitary requirements prevailing in the proposed marketing area, requires substantial investment and heavy operating costs. This is equally true with respect to the maintenance of a satisfactory level of a supply during the normally short fall and winter months.

A certain amount of reserve milk in excess of actual trade sales is necessary to assure an adequate suply of milk at all times. Fluctuations brought on by the seasonal nature of milk production coupled with a relatively uniform pattern of consumption, necessitates the disposition of some of the Grade A milk produced for the market into manufacturing channels. Such excess milk must be manufactured into products and sold in competition with similar products produced from ungraded milk. Milk marketed in this manner returns considerably less than that marketed for fluid use. Consequently a well defined and uniformly applied plan of use classification and the proper pricing of milk in such uses is necessary to prevent such excess milk from depressing the market price of all milk required. To be successful, the classification of milk in accordance with its use and the payments to producers on a use basis, requires full participation and cooperation of those engaged in the industry.

Orderly marketing of the milk produced for fluid consumption requires uniformly dependable methods for determining prices according to the use made of the milk. It also requires uniformity of pricing according to the use made of milk by each handler, and a means whereby lower average returns resulting from surplus may be borne equitably among producers. The buying practices of handlers in the area are among the several factors causing instability in the marketing of milk. Producers have no means of ascertaining what the utilization is made of milk by their handlers. Payment for milk is frequently made on whatever basis a handler may choose to use. Payments at substantially reduced surplus prices by handlers for milk, which producers believe was needed for such handlers fluid sales, is one of the sources of instability and uncertainty in the market.

The record shows that on at least one occasion producers being notified that a surplus of milk existed in the area, located an outlet which would have taken their excess milk at a price level higher than that prevailing among the local handlers. The producers attempted to make the necessary arrangements to transfer the milk but the handlers refused to make it available. This, of course, resulted in depressed returns to the producers involved.

There is no overall plan operating in the Central Mississippi Area which will assure producers of payment for their milk in accordance with its utilization and proper classification. Some handlers follow a form of the classified price plan. However, the products included in each class vary among handlers. Other handlers do not use a classified pricing plan, but have at times used the base and excess payment plan as a substitute for a classified pricing plan, although, of course, using a base plan in this way does not result in uniformity of milk cost among handlers in the same way that a classified price plan does. Moreover, there is no uniformity in the so-called base and surplus payment plans as operated by the various handlers. Handlers in the area differ in their methods of establishing base forming periods. There is lack of uniformity in the base rules of the various handlers, as applied to new producers who enter the market or producers who transfer from one handler to another. The methods of operating these plans are solely subject to the decisions of handlers. All of these factors contribute to marketing instability and price uncertainty with the effect that returns to producers are reduced and production decisions are affected.

Producers have no voice in the determination of the prices which handlers pay. Attempts by producers to bargain for prices have met with failure. Generally speaking, producers have been forced to deal with handlers on an individual basis. Handlers have failed or refused to meet with representatives of organized producers for the purpose of discussing prices. Most handlers merely announce a price or prices to be paid.

Producers have shifted to other markets and many have discontinued production. This indicates considerable instability in the market. Producers need assurance that their returns for milk will reflect general economic conditions and also be in accordance with local supply and demand conditions. A definite and uniform method of establishing minimum class prices which handlers would be required to pay for milk, in accordance with its use, would give this assurance. Dairy farmers could then plan their production on a long range basis and contribute to the assurance of an adequate supply of milk for the market.

Fluid milk producers, in general, are dissatisfied with the weights and butterfat tests reported to them by handlers. The State Department of Agriculture is charged with enforcement of a State Dairy and Creamery Law but has only four men available for making the necessary plant inspections, and for check-testing milk of all dairy farmers in the state. These four men are responsible for this work for approximately 75 scattered plants. Because of this limited staff, the check testing of samples must be limited primarily to a follow-up on complaints received from individual dairy farmers. The producers association were successful in initiating a check testing program at only two plants. In one instance, a service charge was made by a handler for making the producers' authorized check-off. The failure of the handlers to cooperate with producers in making the check-offs necessitated the discontinuation of the associations testing program.

The record indicates that there is a lack of detailed market information for this area. Such information is essential to the effectuation of orderly marketing. It is essential in achieving a level of Grade A milk production commensurate with consumer demand for Grade A fluid products. There are available in April of each year State Department of Agriculture data on receipts and utilization of milk for fluid and manufactured uses for the previous year. This information, however, it not fully satisfactory to the needs of the market, since current monthly data are required by both handlers and producers to evaluate changes in supply and demand conditions for the purpose of arriving at appropriate prices.

It is concluded that the issuance of a marketing agreement and order for the Central Mississippi Marketing Area would contribute substantially to the improvements of many of the conditions complained of and tend to effectuate the declared policy of the act. Namely, to establish and maintain, by means of the regulatory provisions expressly provided for in the act for such purposes, such orderly marketing conditions in the area as will tend to establish prices to the producers of milk for the marketing area at a level as will reflect the factors set forth in section 8 (c) (18) of the act, insure a sufficient quantity of pure and wholesome milk for the marketing area, and be in the public interest.

3. *Marketing area.* The Central Mississippi marketing area should include all territory within the boundaries of the counties of Hinds, Warren, Rankin, Jones, Marion and Madison and Forrest County except Beat 5 of Forrest County. The city of Jackson and nearby suburban areas account for a subsantial proportion of the population of Hinds, Rankin, and Madison counties. In Jones County, Laurel and Ellisville are the largest urban centers, while Vicksburg, Hattiesburg, and Columbia are the largest population centers in Warren, Forrest, and Marion counties, respectively. The boundaries of the marketing area should be such as to cover the areas in which there is the greatest concentration of population that

represents the principal sales outlets for milk proposed to be regulated. The marketing area should be defined on the basis of counties rather than by cities or towns contained therein, because of the relatively large population adjacent to, but outside of, corporate limits of these cities and towns. All municipal corporations, Federal and State installations and facilities located in these counties should be included. Identical State health regulations, with respect to the production and sale of milk, are applied on a county-wide basis throughout the proposed area.

Although the proposed marketing area contains three noncontiguous segments, they, in fact, comprise a single marketing area for purposes of regulation, because there is a community of competition by handlers for milk sales among and within the three areas. A handler in Warren County sells milk in the Hinds County area. A Hinds County handler sells on wholesale and retail routes in Hinds, Warren, Rankin and Madison counties, while a handler in Rankin County competes for fluid sales in Hinds and Simpson counties. Of the three handlers in Forrest County one of them competes for sales in Lamar and Simpson counties with a Marion County handler who also distributes on routes in Simpson, Lamar and Forrest counties. Competition also exists between handlers in Rankin and Forrest counties for sales in Simpson County. The Health Department's uniform regulations throughout the state assures that the handlers may compete freely throughout the whole area proposed for regulation because of the homogenous quality of the product distributed.

One handler proposed that 36 of the 82 counties in the State of Mississippi be included in the marketing area, while another handler proposed the incorporation of 30 counties. The record shows that neither these handlers nor other handlers who would be subject to regulation under the proposed order distribute milk in several of these additional counties. It was testified that the inclusion of the 36 counties in the marketing area, as proposed by one handler, would bring under the order only two additional handlers. These handlers are located more than 100 miles northwest of the city of Jackson, located in Washington County. In addition, to these two, there is another handler who now distributes milk in Jackson. Dairy farmers supplying these three distributors are not intermingled with producers supplying the proposed seven county area.

The extension of the marketing area to include Washington and other counties, would serve no material purpose since these counties cannot be considered as being associated to any great extent with the proposed marketing area. Proposed counties not included in the recommended marketing area are sparsely populated. Distribution of milk in any of these counties, therefore, represents a relatively small proportion of the total milk distribution of handlers doing business in the proposed area.

It is not administratively feasible and is unnecessary to include within the marketing area all of the territories in which dairy farms of producers are located or all of the counties in which handlers may be distributing any portion of their sales of milk or milk products. It would be impossible to define a marketing area where no overlapping of sales areas would be involved. If the marketing area were to be extended to include the entire area in which regulated handlers distribute milk there would be no practical limit as to how far the area would have to be extended.

In order that the scope of the regulation not be unnecessarily extended, Beat 5 of Forrest County should not be included in the marketing area. This civil division of Forrest County has a population of 2,207, according to the 1950 census, or slightly less than 5 percent of the total population of Forrest County. More than half of the sales of milk in Beat 5 are supplied by a milk distributor located on the Gulf Coast and the balance is sold by a handler who will be subject to the order by virtue of sales in other portions of the proposed area. The volume of milk that is distributed in Beat 5 is relatively small compared with the overall volume distributed by the additional handlers who would be affected if Beat 5 were to be included in the marketing area.

Historically, Gulf Coast handlers have paid substantially higher prices for milk than have handlers located in the proposed marketing area. So long as this relationship continues, regulated milk will not be at a disadvantage in competing for sales in the areas where handlers from the two areas compete. It would appear unnecessary, therefore, to extend the regulation to Gulf handlers and require all of their milk to be regulated because a small portion of their total sales is distributed in Beat 5.

4. *Scope of the regulation.* In order to designate clearly the milk to be subject to the pricing provisions of the order, the processors or distributors to be subject to regulation, and the dairy farmers to be pooled, it is necessary to include definitions of fluid milk plant, handler, producer, producer-handler, and other source milk.

The minimum class prices of the order should apply to that milk eligible for distribution as Grade A milk in the marketing area which is received from dairy farmers at plants primarily engaged in supplying fluid milk on retail and wholesale outlets in the marketing area. Order prices should not apply to so-called emergency or irregular shipments nor to reserve milk which might be transferred from other plants to a regulated handler during the season of flush production.

Milk sold for fluid consumption in the State of Mississippi must meet the Grade A inspection requirements of the Mississippi State Board of Health. This agency, through its county sanitary supervisors, issues permits to dairy farmers and to milk plants supplying Grade A milk in the state. The state requirements are based on the United States Public Health Ordinance and Code. Fluid milk may be imported into Mississippi for fluid consumption, provided that such milk meets the standards of the United States Public Health Ordinance and originates from a market with a United States Public Health Service rating of 90 or more. A permit to furnish imported milk must be obtained from the Mississippi State Board of Health by the supplier of such milk. It is not possible, therefore, to establish the identity of the milk plants and their producers which are associated regularly with the function of supplying fluid milk to this market on the basis of permits or approval by the State Board of Health.

All milk plants which make distribution of Grade A fluid milk within the marketing area should be subject to the regulation although those operated by producer-handlers may be only regulated in part. "Fluid milk plant" should be defined to include all milk plants which distribute Grade A milk and milk products in the marketing area. It should include also any associated country receiving stations which are operated by a person operating a distributing plant, referred to above, and used during the delivery period to supply Grade A milk to such distributing plant. The distribution of Grade A milk and milk products is intended to include but is not limited to delivery on wholesale or retail routes (including plant stores and sales to persons sometimes referred to as "peddlers" or "vendors" who do not operate a plant) to consumers, stores, hotels, restaurants, or any other establishments in the marketing area which are not primarily engaged in the handling and processing of milk and milk products.

The record shows that the operators of certain processing or bottling plants in the marketing area receive a part of their milk supply at receiving stations operated by them at points outside the marketing area. Usually all of the milk received at these stations is moved to the owners' bottling plants located in the marketing area. During the flush production season, however, a large proportion of the milk for fluid needs may be received from the producers who deliver their milk directly to bottling plants. In such cases unnecessary transportation may be eliminated and it may be advantageous to transfer the receipts at such receiving stations to manufacturing outlets without moving such milk to the bottling plant. Because this milk is needed by the market during the short production season, provision should be made for such plants to retain their fluid milk plant status during the flush production season without requiring the operator to move milk to his bottling plant each day of the month. Therefore, country plants which are operated by handlers in conjunction with their fluid milk operations should be considered as fluid milk plants under the order.

Some handlers receive supplemental supplies of whole milk from incidental sources and in addition several handlers receive condensed or skim milk for reconstitution or fortification purposes. The record indicates that the plants supplying such milk or milk products are not primarily engaged in supplying the Central Mississippi marketing area. It is not feasible or necessary, therefore,

to extend the regulation to these supplemental or incidental sources of supply at this time.

Handler "Handler" to whom the regulatory provisions are applicable, should be defined as the operator of a fluid milk plant. The handler is the person who receives milk from producers and who is responsible for reporting receipts and utilization of milk and for paying producers minimum prices. In case a person operates more than one fluid milk plant, as defined above, he is a handler with respect to the combined operations of such plants. In case a handler operates non-fluid milk plants, this definition is not intended to include such person in his capacity as an operator of such plants. The handler definition should include a producer-handler to require such person to report to the market administrator as is needed to determine his status as a producer-handler.

Producer "Producer" should be defined as any person, other than a producer-handler, who produces milk under a dairy farm inspection permit issued by the responsible health authority and whose milk is permitted to be used as Grade A milk for consumption in the marketing area if such milk is received at a fluid milk plant. Provision should be made so that the milk of producers regularly received at a fluid milk plant may be diverted for the account of a handler to a non-fluid milk plant during the flush production season without such producers losing their status as producers under the order. Diverted milk shall be deemed to have been received at the plant from which it was diverted. Producers proposed that a cooperative association should be considered as a handler with respect to milk diverted for the account of such association. Under an individual handler pool, such as is herein recommended, there is no need for such a provision. A cooperative association can pay their members for diverted milk without conflict with the order program. The base rating plan, hereinafter recommended, and the provisions for classification of producer milk should apply also to the receipts of milk from a handler's own herd.

Other source milk. "Other source milk" should be defined as all skim milk and butterfat received by a handler in any form from sources other than that skim milk and butterfat contained in producer milk or received from other handlers, except a producer-handler. A definition of other source milk should be included in the order to differentiate between a handler's receipts of producer milk and milk received from sources other than producers and other handlers in the application of the order provisions. This will include all milk and milk products received from sources not subject to regulation under this order.

Producer-handler. "Producer-handler" should be defined as persons who are engaged in producing milk and distributing only milk of their own production, should be subject to the order only to the extent that they must submit reports to the market administrator, as required, and maintain and make available to the market administrator accounts, records, and facilities so that the market administrator may verify that such persons are producer-handlers. Classification provisions of the proposed order should provide that any milk, skim milk, or cream transferred by a handler to a producer-handler will be Class I milk. Since producer-handlers dispose of most of their milk directly to consumers they will not be required to pool their milk with other producers, and any supplemental supplies of milk which they obtain from other handlers may be presumed to be for use in these high value outlets and should be classified in the supplying handlers plant as Class I milk. A producer-handler may receive milk from other handlers and still maintain his status as a producer-handler. Pursuant to the proposed order, any milk which a handler receives from a producer-handler would be other source milk and would, therefore, be allocated to the lowest class utilization at the fluid milk plant(s) of a handler after the allocation of shrinkage on producer milk.

5. *Classification of milk.* Milk received by regulated handlers should be classified on the basis of the form in, or the purpose for which it is used, as either Class I milk or Class II milk.

Skim milk and butterfat are not used in the same proportions, in most products, as contained in milk or milk products received by handlers, and therefore should be classified separately according to their separate uses. The skim milk and butterfat content of certain milk products, received and disposed of by a handler, can only be determined by complicated procedures. Condensed products, on the other hand, present a different problem in that water has been removed. It is necessary, therefore, to provide an acceptable means of ascertaining the amount of skim milk and butterfat in, or used to produce a product. This may be accomplished through the use of adequate plant records made available to the market administrator or by means of standard conversion factors of skim milk and butterfat used to produce such products.

Class I milk should comprise all skim milk and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, eggnog, yogurt, cream and any mixture of cream and milk or skim milk (excluding frozen storage cream, ice cream and ice cream mixes) (2) used to produce concentrated milk, (3) in inventory variations, (4) in shrinkage of skim milk or butterfat in excess of the amount of shrinkage permitted to be classified as Class II milk, and (5) not accounted for as Class II milk.

All of the products included in Class I milk are required by the Mississippi State Board of Health to be obtained from milk or milk products from approved "Grade A" sources. The extra cost of getting approved milk produced and delivered to the market makes it necessary to provide a price for milk used in Grade A products (Class I) which will yield a blend price to producers that will encourage enough milk to meet market needs. Products not required to be made from approved milk must be sold in competition with products made from unapproved milk and should be placed in the lower priced Class II milk classification.

Concentrated milk (milk from which part of the water content has been removed and which is sold on retail or wholesale routes for fluid consumption) has not yet been distributed in the marketing area, but the proper classification of this product at this time will prevent problems concerning its classification if distribution is made at some future date. Products such as evaporated or condensed milk packaged in bulk or in hermatically sealed cans should not be considered as concentrated milk.

Handlers have inventories of milk and milk products at the beginning and end of each month which enter into the accounting for current receipts and utilization. Accounting procedure will be facilitated by classifying only the difference between beginning and ending inventory. Such inventory differences of bulk milk, skim milk and cream and bottled or packaged products included in Class I milk should be classified in Class I milk. This method of handling inventory will automatically reclassify milk removed from inventory for use as Class II milk on a current basis. Manufactured products classified in Class II milk will not be carried in the Class I inventory account because the skim milk and butterfat used to produce such products is accounted for in Class II milk at the time they are manufactured. Handlers will need to maintain records, however, on such stocks to permit audit of their utilization records by the market administrator. Any Class II products which may be used in the production of products included in Class I milk should be reclassified as Class I milk.

Handlers should be responsible for a full accounting of all their receipts of skim milk or butterfat in any form. A handler who first receives milk from producers should be responsible to the market administrator for the purpose of classification and the payment for such milk. All skim milk and butterfat which is received, and for which the handler cannot establish utilization, should be classified as Class I milk except for allowable shrinkage in Class II milk. This provision would not apply, of course, if a handler maintains complete records of utilization, but the provision is necessary to remove any advantage to handlers who fail to keep complete and accurate records and to assure that producers receive full value for their milk on the basis of its use. It is necessary, therefore, to place the burden of proof on the handler to establish the utilization of all milk as other than Class I.

All skim milk and butterfat used to produce products other than those classified in Class I milk should be Class II milk. These Class II products include (for illustration), ice cream and ice cream mix and other frozen desserts and mixes; butter, cheese, including cottage cheese; evaporated and condensed milk (plain and sweetened), non-fat dry milk solids, dry whole milk; condensed or dry buttermilk; and any other products not specified as Class I milk.

Cream which is placed in storage and frozen should be classified as Class II milk. Such cream is primarily for use

in ice cream and ice cream mixes. Any frozen cream or other Class II products which may be used later in a Class I product must be reclassified as Class I milk at the time of such use. Any skim milk which is dumped or disposed of for livestock feeding should be classified as Class II milk if the market administrator can verify such disposition.

Shrinkage should be determined by subtracting from the total pounds of skim milk and butterfat received by the handler, his total utilization of skim milk and butterfat, respectively. If his total receipts include both producer and other source milk, the total shrinkage should be prorated between producer and other source milk on the basis of the pounds received from each source. None of the shrinkage should be assigned to milk received from other handlers because shrinkage on such milk will be allowed to the transferring handler. A plant which is operated in a reasonably efficient manner and for which complete and accurate records of receipts and utilization are maintained should have total shrinkage of less than 2 percent of total receipts. It is concluded that shrinkage assigned to producer milk which is not more than 2 percent of total receipts of producer milk should be classified as Class II milk and any shrinkage in excess of this quantity should be classified as Class I milk.

Transfers. Milk, skim milk or cream transferred by a handler to the fluid milk plant of another handler, except that of a producer-handler, should be classified as Class I milk unless the transferer handler indicates in writing to the market administrator that such milk is to be classified as Class II milk. However, sufficient Class II utilization must be available at the transferee plant for such assignment after prior allocation of shrinkage and other source milk as described below. On the other hand, if the transferring handler received other source milk, the transfer of milk as Class I milk should be limited to the extent that other source milk will not be allocated to Class I milk in the transferring handlers plant while producer milk is allocated to Class II milk in the transferee-handler's plant. This is necessary to prevent the displacement in Class I of producer milk by other source milk.

In order for milk, skim milk and cream disposed of to a non-fluid milk plant, including milk which is diverted, to be classified as Class II milk, the non-fluid milk plant must use an equivalent amount of skim milk and butterfat, respectively, in Class II milk as defined in the order. In addition, the operator of such plant, if requested, must make his books and records available to the market administrator for the purpose of verifying the receipt and utilization of milk in such non-fluid milk plant. Handlers proposed that verification of such transfers be made on the basis of a certified statement from the operator of the receiving plant. Experience has shown that provision for verification by the market administrator is reasonable and necessary. As described above, all transfers of milk to a producer-handler should be Class I milk.

In view of the fact that the order class prices apply only to producer milk, it is necessary to determine the quantities of milk that are to be allocated to producer milk in each class, if other source milk is also received. The milk of producers, who are primarily engaged in supplying the market, should be assigned to Class I utilization on a priority basis. A system of allocation should be provided for this purpose as set forth in § 911.46 of the recommended agreement.

Since uniform prices paid producers by each handler are to be calculated monthly the procedures described above should be carried out with respect to all milk received during each month.

6. *Class prices.* Class I prices should be established at a level, which in conjunction with Class II prices, hereinafter concluded to be appropriate, will result in returns to producers high enough to maintain an adequate but not excessive supply of milk to meet the requirements of the marketing area.

The maintenance of stable conditions in the market requires that prices be modified whenever the supply of milk in relationship to sales is out of adjustment. If prices remain too low, insufficient milk will be produced to provide for Class I needs, and if a shortage of this kind should continue, it would be necessary to supplement supplies from regular producers by importations of milk from distant areas. On the other hand, if prices are too high, production will be stimulated and consumption curtailed, with the result that more milk will be produced than is needed to satisfy the demand for Class I and unnecessary and uneconomic surpluses of milk will develop. Moreover, an appropriate balance between supplies of approved milk from regular producers and the sales of such milk in Class I will be attained only if Class I prices are in proper relationship to prices of milk from supplemental sources of supply.

Because of changing supply and demand conditions for milk in the market it is necessary, in order to maintain an appropriate balance between supply and sales, to provide a method of flexible Class I pricing. Pricing formulas which cause prices to change automatically with changes in market conditions are in general use for the pricing of milk to farmers in fluid markets. Two general types of Class I formulae are employed: One, in which Class I prices are established at a differential over the prevailing price of milk for manufacturing uses; and the other, in which Class I price changes are made in accordance with relative changes in basic supply and demand indicators (indexes) The latter is referred to as the "economic type formula"

An economic type formula was proposed by proponents of the order while some of the handlers at the hearing testified in favor of a formula based on manufacturing milk prices. As previously indicated in this decision, there is a substantial overlapping of the supply area of the Central Mississippi marketing area with that of the New Orleans market. It is necessary, therefore, that prices in this area not only reflect local conditions but also bear a reasonably close relationship to prices in the New Orleans market. The record indicates that handlers in certain sections of the proposed marketing area relate their paying prices to those paid in the New Orleans market which employs an economic type of formula. To assure the proper relationship of prices, a similar formula should be adopted for this area. The factors included in the formula, however, should reflect any differences which prevail between local supply and demand conditions in the two areas.

Under the New Orleans formula, changes in the Class I price are based on relative changes in a composite index composed of farm labor and dairy feed costs in the New Orleans milkshed, the index of wholesale commodity prices for the United States and the index of the New Orleans Department Store Sales (consumer demand). Similar factors which will reflect changes in production costs, consumer demand and the general price level are appropriate for pricing Class I milk in this area. The proposed formula employs a composite index consisting of Mississippi Farm Labor rates and dairy feed prices, the index of wholesale commodity prices for the United States and an Index of Business Activity for Central Mississippi.

Direct cash costs of production in relation to prices received by dairy farmers for milk have an important influence on the total amount of milk available to the marketing area. Expenditures for feed and labor represent a very large proportion of the variable costs and approximately 65 percent of the total cost of producing milk in this area. Feed, the most important single item of cost, makes up approximately 45 percent of total costs. Labor, the second most important item, represents approximately 20 percent of the total. Feed costs are included in the formula, provided herein, in the form of an index of reported prices paid by farmers for all mixed dairy feeds (under 29 percent protein), in the State of Mississippi. These prices are published monthly in Agricultural Prices by the Bureau of Agricultural Economics, United States Department of Agriculture. The same series of prices for the State of Louisiana is applied under the New Orleans formula. As discussed more fully later, the "formula index" will be applied by using the monthly average of such index for the year 1952 as a base. Since the indexes or prices for the items used in the formula are not published for a given month until after the end of such month, it is necessary to use the latest figure available at the time the Class I price is announced. The factor .0458, the feed component of the index, therefore, is derived from an average price of feed of $4.53. This is the average of prices reported by the Department of Agriculture for dairy feed for the months of November 1951 through October 1952.

An index of dairy farm wage rates, without board or room, as compiled by the United States Department of Agriculture for Mississippi, is included in the formula to give due weight to changes in labor costs. The corresponding item in the New Orleans formula is composed of the wage rates for Mississippi and Louisiana. The factor .0372 in the pricing formula is derived from the reported

daily average wage rate of $3.72 for 1952. Labor costs represent approximately 30 percent of the combined cost of feed and labor in producing milk in this area. Accordingly, the index of all mixed dairy feed and farm wage rates should be combined on the basis of a 70–30 weighting, respectively, to form a composite feed and labor index.

The Index of Business Activity, which is compiled by the School of Business and Industry, Mississippi State College, is included in the formula to reflect changes in the consumer demand in the cities and towns included in the marketing area. The Index of Business Activity for the State of Mississippi and for 16 divisions or trading areas of the State is published regularly by State College in the Mississippi Business Review. These indexes are based on data collected monthly on bank debits, money orders issued, postal receipts, telephones in service, employment placements, initial claims and job applicants in each of the trading areas. In some areas the index also includes the number of gas and electric connections. The Business Activity Indexes for the trading areas of Vicksburg, Jackson, Laurel and Hattiesburg were combined into a single index, weighting each area in accordance with population (1950 census) contained therein. These trading areas comprise an area considerably larger than the proposed marketing area, and with the exception of Marion County, includes all of the counties in the marketing area. It was testified at the hearing by a staff member of the School of Business, that this index will be compiled and published along with other indexes in the Mississippi Business Review. It was further stated, on the basis of comparison with consumer income studies, that the combined index for the above-mentioned districts is a reliable indicator of changes in consumer-buying power in this area.

Because of frequent erratic movements exhibited by this index from month to month which are not related to changes in sales of Class I milk, it is concluded that a moving average should be used of the index for the latest three months for which the index is available at the time the Class I price is to be announced by the market administrator. The average of this index (1947–1949 base) for the months used in determining the 1952 "formula index" was 129.8. The three-month moving average of the Business Activity Index, therefore, should be divided by 129.8 before including it in the "formula index"

The price of a commodity is a measure of its economic value relative to the values of other commodities. Hence, in times of general price movements, the price of a given commodity may change, but its value in relation to other commodities may remain more or less constant. General price movements of this nature are fairly common. Consequently, in deriving a formula to determine changes in the price of milk in this area, it is necessary to devise a means for maintaining a milk price in appropriate relationship to the prices of all other commodities. The Index of Wholesale Commodity Prices in the United States, compiled and published monthly by the United States Department of Labor, is a reliable measure of changes in the general price level. The use of this index as a component in the pricing mechanism for milk will maintain an appropriate relationship between prices of milk in this market and of prices in general at times when movements are taking place in the general price level. The index of the general price level, the cost factor and the demand factor should be given equal weight in computing the "formula index"

It was proposed that the period 1947–1949 be used as a base period for determining relative changes in the "formula index" and that $6.00 be used as the basic price to which such changes would be applied. It is not possible on the basis of the record evidence to judge the propriety of this price in relation to market conditions which prevailed at that time. It is concluded that the base period should be as recent as possible. The three component indexes should be combined in the "formula index" with 1952 as a base (average monthly formula index equal to 100)

Class I prices should be announced by the market administrator as early in the current delivery period as possible. Other Class I pricing provision, discussed later, preclude the announcement of the Class I price prior to the 6th day of the current delivery period. The formula index should be constructed so as to permit a determination of the price resulting therefrom by the first day of the delivery period. Since the individual prices and indexes for given months are not all available at the same time, the market administrator should use the latest figures that are available on the 28th day of the month prior to the announcement of the Class I price. The factor contained in the formula for adjusting each price or index, therefore, was derived by averaging the respective monthly figures for the 12 months which would be used in computing the "formula index" for each month of 1952.

Most of the handlers in the proposed marketing area paid producers $6.20 per hundredweight for base milk during each month of 1952. The testimony indicates, however, that a handler in the Hattiesburg area established Class I prices at 10 cents less than the New Orleans Class I price at the 61–70 mile zone. As previously indicated, a substantial portion of the supply for this area is purchased in competition with New Orleans plants.

The monthly average Class I price under the New Orleans order at the 61–70 mile zone during 1952 was $6.59. As the zoning provisions of the order are extended, the resulting price at a plant located in Hattiesburg, Mississippi, would have been approximately $6.50 and at a plant located in Jackson, Mississippi, $6.37. The Class I price announcements of the New Orleans Market Administrator for the months of March, April, and May, 1953, of which official notice is hereby taken, shows that the Class I formula price has been reduced 7, 13, and 19 cents, respectively, by a supply-demand arrangement in that order. The resulting Class I price at the 61–70 mile zone was $6.54 in March, $6.48 in April, and $6.37 in May, 1953. The continuation of the indicated trend in the relationship of milk receipts to Class I sales, as indicated by these adjustments, will result in further reductions in the Class I prices in the immediate future. These facts should also be considered in establishing the general level of prices in the proposed Central Mississippi Marketing Area.

A price of $6.30 per hundredweight should be used as the "basic" price to which relative changes in the "formula index" should be applied in calculating the Class I price for each month. This level of $6.30 per hundredweight is supported by record evidence with respect to prices and marketing conditions prevailing in this area during 1952 and to prices of Class I milk in nearby competitive markets.

Although the economic type formula should be used as the primary determinant of Class I prices in this area, it is nevertheless reasonable to place limits on the fluctuations in prices which the formula may provide. As previously discussed in this decision there are a number of milk manufacturing plants located in or near this milkshed. It is necessary, therefore, not only to provide prices for approved milk that reflects economic conditions in the fluid market, but also to keep such prices in reasonable alignment with manufacturing milk prices. If fluid milk prices get too far out of line with manufacturing milk prices, producers of such milk will be encouraged unduly to change to the production of approved milk and the market may become oversupplied. On the other hand, too low a price for approved milk in relation to manufacuring prices will discourage dairy farmers from expending the necessary capital and labor essential to producing approved milk and the market will not be adequately supplied. It is not advisable for the formula to provide prices which would exceed the cost of obtaining suitable milk, on a regular basis, from more distant areas. Neither is it advisable to allow local prices to fall to a disproportionately low relationship with milk prices in other areas. Limits should be placed, therefore, upon the range within which the "formula index" can determine the Class I prices relative to manufacturing milk prices. Provision is therefore made to establish such limits as will preclude the formula index from causing the Class I price to be higher than the average price per hundredweight paid or reported to be paid for milk at the so-called 18 Midwestern condenseries during the preceding month plus $3.00 nor lower than such paying price plus $2.00.

Over a period of time, it is expected that the resulting formula prices will maintain a desired relationship with prices paid for Class I milk in the New Orleans supply area where competition for supplies is the greatest. However, in order to prevent any extreme price discrepencies in the immediate future, it should be provided that the Central Mississippi Class I price shall not be less than the New Orleans Class I price at the 61–70 milk zone less 35 cents per hundredweight from the effective date hereof through February 1954. Direct correlation of prices beyond that date

would require a reappraisal of marketing conditions at a public hearing.

For the above stated reasons, it is concluded that the pricing plan proposed herein, will provide Class I prices which are reasonable and necessary to assure an adequate supply of milk for the proposed marketing area.

A proposal was made to prevent the Class I price in each of the months of September through December from being less than that for the preceding month and the price for each of the months of April, May and June such price from being more than that for the preceding month. Such a provision is unnecessary in view of the fact that the use of the economic type formula together with the manufacturing milk price formula should achieve the necessary protection against unwarranted counter-seasonal price movements. Producers also proposed that a supply-demand adjustment arrangement be included in the order. Although this type of automatic price adjuster has merit, more current data on production and sales for the entire proposed marketing area is needed. Further consideration of a supply-demand provision, therefore, should be delayed until such time as more complete statistics becomes available.

Class II milk. The Class II price should be at such a level that handlers will accept and market such quantities in excess of Class I needs as may arise from time to time. The price, however, should not be so low that handlers are encouraged to procure milk supplies solely for the purpose of converting them into Class II products.

All products included in Class II milk may be made from unapproved milk. Approved milk which may be used in such products by regulated handlers should be priced at the competitive price paid by local manufacturing plants for unapproved milk. The pricing of Class II milk on the basis of the average of the prices paid for unapproved milk by five manufacturing plants located in Central Mississippi, as proposed, will reflect competitive prices for manufacturing milk in this area.

Ice cream is one of the most important outlets for reserve supplies of milk in the marketing area. Several handlers are engaged in the manufacture of ice cream. The price of Class II milk, at the competitive manufacturing price level, should provide outlets for a substantial portion of any reserve supplies in this product.

There are a number of manufacturing plants located in or near the Grade A production area which are engaged in manufacturing evaporated milk, cheese, condensed milk, dried milk solids and butter. Some of the reserve milk received by handlers may have to be disposed of to these plants from time to time. The record indicates that during the flush production season handlers sometimes divert milk directly from the farm to such plants.

A proposal was made at the hearing to price milk which is received at a fluid milk plant and then transferred to a manufacturing plant, at 50 cents per hundredweight less than the Class II price. The record fails to support the need for a lower price for such milk. The Class II price is an average of prices paid by plants engaged in the production of different manufactured products. Prices paid by manufacturing plants may differ because of changes in the relative prices of the products which they manufacture. Handlers can dispose of reserve milk to the plants which are paying the highest price at the time of such disposal. Because of small volume and inefficient means of handling, it is quite possible that some handlers may at times incur losses in handling their necessary reserve supply of milk. The handling of surplus milk is incidental to the handling fluid milk. Handlers who need and desire the entire output of producers during periods of short supply must assume the responsibility to pay producers at least the competitive manufacturing prices for Class II milk throughout the year.

It was previously concluded that butterfat and skim milk should be accounted for separately for classification purposes. It will be necessary, therefore, to adjust Class I and Class II prices of 4 percent milk in accordance with the average test of milk in each class by a butterfat differential which will reflect differences in value related to the butterfat content. The values resulting from multiplying the average price of 92-score butter at Chicago by .125 for Class I milk and by .115 for Class II milk will provide the appropriate basis for adjusting such prices in this market. The use of butterfat differentials in this manner follows standard practices in fluid markets for adjusting for butterfat variations. In order that the Class I butterfat differential may be announced early in each delivery period, it is provided that the Class I differential be based on the average price of butter in the preceding delivery period. This will permit the announcement of the Class I differential at the same time that the Class II price and Class II butterfat differential are announced, for the preceding delivery period, on the 6th day of the month.

The butterfat differential used in making payments to producers should be fixed at the price of Grade A (92-score) butter at Chicago multiplied by .115. This is the same as the butterfat differential for Class II milk. It in no way affects the handlers' cost of milk but merely prorates returns among producers whose milk differs in butterfat test. Such a differential appears appropriate in view of the fact that the average test of producer receipts exceeds that of Class I sales. A lower butterfat differential than that recommended by the proponents will tend to encourage the production of milk with a fat test more in line with the fat requirements of the market.

A number of indexes, rates and prices are employed in the pricing provisions of the order, several of which are from sources other than the Department of Agriculture. Provision should be made, therefore, so that if for some reason such prices, rates or indexes series are not published, as indicated, or are discontinued or revised, the Secretary may determine equivalent factors to be used until such time as the order can be amended. Similar provisions are contained in other orders applying the economic type formula.

7. Distribution of the proceeds to producers. The individual-handler type of pool should be included in the order as a means of distributing to producers the returns from the sale of their milk. Under this type of pool the minimum prices to be paid all producers delivering their milk to a given handler will be the same. The "blend" "base" and "excess" prices, as the case may be, will depend on the proportion of the producers' milk used in Class I and Class II milk by the handler. Although each handler will be required to pay minimum uniform prices to all the producers who deliver to him during each delivery period, the prices paid by different handlers may differ because the proportion of milk used in each class may vary among handlers.

Under the conditions existing in this area, the individual-handler pool will tend to result in optimum allocation of producer milk among handlers according to Class I needs of the handler and in maximum returns to producers from their milk.

Base and excess plan. A "base and excess" plan of distributing the returns for milk among producers should be employed in connection with the individual-handler pool. There is a wide seasonal variation in the production of milk and a need for more milk in the fall and winter months relative to spring and summer levels. Some handlers have difficulty in utilizing efficiently all milk delivered to them in the months of seasonally high production. By providing returns related directly to a producer's ability to deliver additional milk in the fall and winter as compared with deliveries during the season of flush production, a production pattern more closely fitted to the sales pattern of fluid milk and fluid milk products will be encouraged.

Base and excess plans in one form or another are commonly used within the milkshed area at the present time although individual producer's bases are not established in a uniform manner. The base and excess method of distributing milk returns during the months of flush production has wide support among both producers and handlers. The plan proposed by producers would establish for each producer a base equal to his average daily deliveries of milk during the six-month period September through February. (Total deliveries divided by the number of days in this period.) During these months, producers would receive the "blend" or average price paid by the handler to which they deliver their milk. For each of the months of March through August separate uniform prices for "base milk" and "excess milk" would be computed so that Class I sales would first be allotted to "base milk." Base milk would be that quantity of milk delivered by each producer up to his average daily base multiplied by the number of days he delivers milk to a handler during a delivery period. The "excess milk" price should be the minimum order Class II price, unless the total Class I sales of a handler exceeds the total base quantity received from his producers in a given

month. In this case, the value of such additional Class I sales should be reflected in the price of "excess" milk.

It is concluded that the base forming period should be the months of September through January of each year. These are the months when production of milk is relatively low in relation to fluid milk sales. Production of milk normally would be expected to increase substantially from the low point by the first of February. The omission of February from the base forming period as proposed by producers will permit a month of transition between the base forming period when producers are encouraged to increase their production and the start of the base operating period which is intended to discourage increased production.

Producers who enter the market during the fall and early winter months when additional milk is usually needed, should be permitted to establish a base on deliveries made during a portion of the base forming period. This may be accomplished by determining the base for a new producer on the basis of the number of days in the base forming period on which he delivers milk, but in no event less than 120 days.

The base operating period, during which payments are made under the base plan, need not include all months that are not included in the base forming period to achieve the objectives of this plan. By limiting the base operating period or payment for base and excess milk to the months of March through July a desired degree of flexibility will be provided. Omission of August from the base operating period will permit all producers to adjust their production programs immediately preceding the fall shortage months without being directly influenced by the base plan during this month.

The order should provide that the market administrator will notify each producer and the handler to whom he is then selling milk of the amount of his daily base on or before March 1 of each year. The daily base established by each producer will be calculated by the market administrator from handlers' payroll records.

It is necessary to provide certain rules in connection with the establishment and transfer of bases in order to provide reasonable administrative workability of the plan. To accomplish this and to preserve the effectiveness of the base plan, transfers of bases should be limited to the entire bases of producers who retire from farming. In cases of death or dissolution of joint production arrangements such as landlord-tenant relationships, similar transfers should be permitted. Since the base plan is effective in determining producer payments in only five of the twelve months in each year and since all producers must establish a new base each year, other provisions than those contained herein for the establishment and transfer of bases are unnecessary.

The uniform prices, including uniform base and excess prices, which are required to be paid producers by each handler should be computed for milk containing 4 percent butterfat which is in accordance with past and current market practices. In distributing proceeds to producers, a differential should be applied to recognize different values of milk in accordance with its butterfat content. This differential for each one percent variation from 4 percent butterfat should be determined by multiplying the monthly average price of 92-score butter on the Chicago market by .115.

Payment to producers. The order should provide that each handler make final payments to each producer for milk received at the appropriate uniform price(s) on or before the 15th day after the end of each delivery period. Since it has been the practice in this area for handlers to pay producers bi-monthly, provision has been made for partial payments to producers on or before the last day of each month for milk delivered during the first 15 days of each delivery period at not less than the Class II price. Provision should also be made for the handler, if authorized in writing by the producer, to make proper deductions for goods or services furnished or for payments made on behalf of the producer. At the time the final payment is made, each handler will be required to furnish to each producer a monthly statement. This should show the pounds and butterfat tests of milk received from him together with the rate or rates of payment for such milk and a description of any deductions claimed by the handler.

8. *Other administrative provisions.* Certain other provisions should be included in the order to carry out administratively the purposes of the regulation.

In addition to the definitions discussed earlier in this decision which define the scope of the regulation, certain other terms and definitions are desirable in the interest of brevity and to assure that each usage of the term implies the same meaning. Definitions for base and excess milk and delivery period are included. Such other terms as are defined in the attached order are common to other Federal milk orders.

Market administrator Provision should be made for the appointment by the Secretary of a market administrator to administer the order and to set forth his powers and duties as authorized by the act for such agency.

Records and reports. Provisions should be included in the order for the purpose of requiring handlers to maintain adequate records of their operations and to make certain reports. Time limits must be prescribed for filing such reports and for making payments to producers. Dates must also be established for the announcement of prices by the market administrator. The following schedule will afford interested parties adequate time to perform the indicated function:

Day of Month and Function

Fifth: Submission by handlers of monthly report of receipts and utilization for preceding delivery period.

Sixth: Announcement by the market administrator of Class II price and Class II butterfat differential for preceding delivery period and the Class I price and the Class I butterfat differential for current delivery period.

Tenth: Announcement by market administrator of uniform prices and notification to handlers of the value of their producer milk received in preceding delivery period.

Fifteenth: Final payments by handlers to producers for milk received during preceding delivery period.

Twentieth: Submission of producer payroll report by handlers for preceding delivery period.

Last: Partial payments to producers for milk received during first 15 days of current delivery period.

Handlers should maintain and make available to the market administrator all records and accounts of their operations which are necessary to verify or correct information reported to the market administrator and all payments made under the order. In addition to the regular reports required of handlers, provision is made for handlers to notify the market administrator of his intention to import other source milk. Such information on a market-wide basis may assist handlers in locating local sources of producer milk and expedite the transfer of such milk among handlers. It is necessary that handlers retain records to prove the utilization of the milk and that proper payments were made to producers. Since the books and records of all handlers cannot be completed or audited immediately after the milk has been delivered to a plant, it therefore becomes necessary to keep such records for a reasonable period of time. The order should provide limitations on the period of time handlers shall retain such books and records and on the period of time in which obligations under the order shall terminate. Provision made in this regard is identical in principle with the general amendment made to all milk orders in operation on July 30, 1947, following the Secretary's decision of January 26, 1949, (14 F. R. 444). That decision covering the retention of records and limitation of claims is equally applicable in this situation and is adopted as a part of this decision.

Handlers excepted to the provisions of § 911.92 dealing with adjustment of accounts on the basis that provision is not made for a handler to make a deduction from a payment to a producer to offset an over-payment for a previous payment period. Customary auditing procedure and adjustments should be sufficient to correct for any obvious mathematical errors which may result in over-payments on the part of handlers. The purpose of this section of the order is to assure that producers are paid no less than the minimum order prices. The order permits payments above minimum prices in the form of premiums which are not unusual in the milk trade. Such payments are made at the option of the handler and the market administrator may in no way determine the extent of such premiums. Likewise, the market administrator cannot recognize an over-payment in the form of a premium in one delivery period to offset an under-payment in another delivery period.

Expense of administration. Each handler should be required to pay the market administrator, as his pro rata share of the cost of administering the order, not more than 5 cents per hun-

dred weight or such lesser amount as the Secretary may from time to time prescribe on receipts of (a) producer milk (including such handlers own production) and (b) other source milk classified as Class I milk.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The act provides that such cost of administration shall be financed through an assessment on handlers. One of the duties of the market administrator is to verify the receipts and disposition of milk from all sources. The record indicates that other source milk is received by most handlers to supplement local producer supplies of milk and by a few handlers in their fluid milk plants for ice cream operations which are conducted in the same plant. Some handlers obtain a portion of their milk supply from their own herds. Equality of bearing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment to all producer milk (including handlers own production) and other source milk allocated to Class I milk.

In view of the anticipated volume of milk and the costs of administering orders in markets of comparable circumstances, it is concluded that an initial rate of 5 cents per hundredweight is necessary to meet the expense of administration. Provision should be made to enable the Secretary to reduce the rate of assessment below the 5 cents per hundredweight maximum without necessitating an amendment to the order. This should be done at any time experience in the market reveals that a lesser rate will produce sufficient revenue to administer the order properly.

Marketing services. A provision should be included in the order for furnishing marketing services to producers who do not belong to a cooperative association performing such services and for an appropriate deduction for such services from payments for milk.

There is an acute need for a marketing service program in this area. Orderly marketing will be promoted by assuring individual producers that correct payments are received for their milk based on the classification, pricing, pooling, and payment provisions of the order. To accomplish this fully, it is necessary to determine that the reported butterfat tests and weights of individual producer deliveries of milk are accurate. Verification of weights and tests will be accomplished by a cooperative association qualified to perform such marketing services for its members, as determined by the Secretary, and by the market administrator acting on behalf of nonmembers and members of associations not performing such services.

An important phase of the marketing service program is to furnish producers with current market information. As previously discussed, detailed information regarding market conditions is not now regularly available either to cooperative associations and their members or to unorganized producers. Efficiency in the production, utilization and marketing of milk will be promoted by the dissemination of current information on a market-wide basis to all producers.

To enable the market administrator to furnish such services 7 cents per hundredweight should be deducted, with respect to receipts of milk, from producers for whom he is required to render marketing services. The size of the milkshed and the volume of milk produced are comparable with several other markets now under Federal Regulation. Based on experience in such other markets which operate on a marketing service deduction of 7 cents, and based on the fact that no milk market operating under Federal Regulation has a marketing service deduction of more than 7 cents per hundredweight, it is concluded that a deduction of 7 cents per hundredweight will provide adequate revenue for the necessary marketing services in this market. If later experience indicates that marketing services can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing.

Handlers proposed that they pay the entire marketing service deduction to the market administrator, who in turn would pay over the money to the association. However, handlers failed to show a need for the market administrator to collect deductions from handlers for payment to cooperative associations. Provision therefore, is made in the order for handlers to pay directly to qualified cooperative association such deductions for marketing or other services as are authorized by the membership of such association.

General findings. (a) The proposed marketing agreement and the order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively "Marketing Agreement Regulating the Handling of Milk in the Central Mississippi Marketing Area," and "Order Regulating the Handling of Milk in the Central Mississippi Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the attached order, which will be published with this decision.

This decision filed at Washington, D. C., this 4th day of August 1953.

[SEAL] E. T. BENSON,

Secretary of Agriculture.

Order[1] Regulating the Handling of Milk in the Central Mississippi Marketing Area

Sec.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

AUTHORITY: §§ 911.1 to 911.111 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

§ 911.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Central Mississippi marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the said order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) The said order regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held; and

(4) All milk and milk products, handled by handlers, as defined herein, are in the current of interstate commerce or directly burden, obstruct or affect interstate commerce in milk or its products.

(5) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expenses, 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect to other source milk which is classified as Class I milk and all producer milk (including such handler's own production) received during the delivery period.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Central Mississippi marketing area shall be in conformity to and in compliance with the terms and conditions of this order as set forth below.

DEFINITIONS

§ 911.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement of 1937, as amended (7 U. S. C. 601 et seq.)

§ 911.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 911.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal Agency authorized to perform the price reporting functions specified in this subpart.

§ 911.4 *Person.* "Person" means any individual, partnership, corporation, association, or other business unit.

§ 911.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association.

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

§ 911.6 *Central Mississippi, Marketing Area.* "Central Mississippi Marketing Area" hereinafter called "marketing area" means all the territory within the boundaries of the Counties of Hinds, Madison, Rankin, Warren, Marion, and Jones and Forrest, excluding Beat 5 thereof, all within the State of Mississippi.

§ 911.7 *Fluid milk plant.* "Fluid milk plant" means (a) any milk plant approved by a health authority duly authorized to administer regulations governing the quality of milk disposed of in the marketing area and used during the delivery period for the processing and packaging of Grade A milk all or a portion of which is disposed of as Class I milk to wholesale or retail outlets (including delivery by a vendor or sale from a plant store) in the marketing area except another fluid milk plant, or (b) any receiving station which is operated by a person operating a distributing plant described in paragraph (a) of this section, and used for the receipt of Grade A milk which is shipped to such distributing plant during the delivery period.

§ 911.8 *Nonfluid milk plant.* "Nonfluid milk plant" means any milk manufacturing, processing, or bottling plant other than a fluid milk plant.

§ 911.9 *Handler* "Handler" means: (a) Any person in his capacity as the operator of a fluid milk plant(s) or (b) a producer-handler.

§ 911.10 *Producer* "Producer" means any person, except a producer-handler, who produces milk under a dairy farm inspection permit issued by a health authority duly authorized to administer laws and regulations governing the quality of milk for consumption as milk in the marketing area and whose milk (a) is received at a fluid milk plant as defined under § 911.7 or (b) is diverted during any of the months of March through July by the operator of such fluid milk plant, for the handlers account, from the farm to a non-fluid milk plant. Milk so diverted shall be deemed to have been received at the fluid milk plant by the handler who causes it to be diverted.

§ 911.11 *Producer milk.* "Producer milk" means all skim milk and butterfat contained in milk produced by a producer and received directly from the farm of such producer, at a fluid milk plant.

§ 911.12 *Other source milk.* "Other source milk" means all skim milk and butterfat received at a fluid milk plant other than that skim milk and butterfat contained in producer milk or received from other handlers, except a producer-handler.

§ 911.13 *Producer-handler* "Producer-handler" means any person who produces milk under a dairy farm permit issued by a health authority duly authorized to administer regulations and laws governing the quality of milk disposed of in the marketing area and who processes or packages milk from his own production and distributes all or a portion of such milk within the marketing area as Class I milk but who receives no milk from producers.

§ 911.14 *Base.* "Base" means a quantity of producer milk expressed in pounds per day computed pursuant to § 911.82.

§ 911.15 *Base milk.* "Base milk" means producer milk delivered each month which is not in excess of the producer's base multiplied by the number of days of delivery in such month.

§ 911.16 *Excess milk.* "Excess milk" means producer milk delivered in excess of base milk.

§ 911.17 *Delivery period.* "Delivery period" means a calendar month, or the portion thereof during which this subpart is in effect.

MARKET ADMINISTRATOR

§ 911.20 *Designation.* The agency for the administration of this subpart shall be a market administrator, selected by

the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 911.21 *Powers.* The market administrator shall have the following powers with respect to this subpart.

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violation;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 911.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this subpart, including but not limited to, the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 911.94 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 911.93, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this subpart, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Audit all reports and payments by each handler by inspection of such handler's records and of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 5 days after the date upon which he is required to perform such acts, has not made reports pursuant to § 911.30 and § 911.31 or payments pursuant to § 911.90;

(i) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, and notify each handler in writing:

(1) On or before the 6th day of each delivery period the minimum price for Class I milk computed pursuant to § 911.51 and the Class I butterfat differential computed pursuant to § 911.54 (a).

(2) On or before the 6th day of each delivery period, the minimum price for Class II milk computed pursuant to § 911.53 and the Class II butterfat differential computed pursuant to § 911.54 (b)

(3) On or before the 10th day after the end of each of the months of August through February, the uniform price for each handler computed pursuant to § 911.71 and the butterfat differential computed pursuant to § 911.91, and

(4) On or before the 10th day after the end of each of the months of March through July, the uniform prices for base milk and for excess milk for each handler computed pursuant to § 911.72 and the butterfat differential computed pursuant to § 911.91.

(j) On or before the 10th day after the end of each delivery period, mail to each handler, at his last known address a statement showing for such handler:

(1) The amount and value of producer milk in each class and the totals thereof;

(2) For the months of March through July the amounts and value of his base and excess milk respectively; and

(k) Prepare and disseminate to the public such statistics and such information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS, AND FACILITIES

§ 911.30 *Reports of receipts and utilization.* On or before the 5th day after the end of each month each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in milk received from producers, and for the months of March through July the aggregate quantities of base and excess milk;

(b) The quantities of skim milk and butterfat contained in receipts from other handlers;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk (except Class II products disposed of in the form in which received without further processing or packaging by the handler),

(d) The utilization of all skim milk and butterfat required to be reported pursuant to this section; and

(e) Such other information with respect to receipts and utilization as the market administrator may prescribe.

§ 911.31 *Other reports.* Each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, and each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe as follows:

(a) On or before the 20th day after the end of the delivery period his producer payroll for such delivery period which shall show for each producer: (1) his name and address, (2) total pounds of milk received from such producer, including for the delivery periods of March through July the total pounds of base and excess milk, (3) the number of days on which milk was received from such producer if less than a full calendar month, (4) the average butterfat content of such milk, and (5) the net amount of such handler's payment together with the price paid and the amount of any deduction authorized in writing by such producer.

(b) On or before the first day other source milk is received, such handler's intention to receive such milk and on or before the last day such milk is received, his intention to discontinue receipt of such milk.

§ 911.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator or his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all skim milk and butterfat;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream, and milk products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and milk products on hand at the beginning and end of each month; and

(d) Payments to producers.

§ 911.33 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act of a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 911.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the delivery period by a handler and which is required to be reported pursuant to § 911.30 shall be classified by the market administrator pursuant to the provisions of §§ 911.41 through 911.46.

§ 911.41 *Classes of utilization.* Subject to the conditions set forth in §§ 911.42 through 911.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including "reconstituted skim milk") and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, flavored

milk, flavored milk drinks (including egg-nog) yogurt, cream (other than frozen storage cream) cultured sour cream, and any mixture of cream and milk or skim milk (other than ice cream and ice cream mixes) (2) used to produce concentrated (including frozen) milk; (3) in inventory variations; and (4) not specifically accounted for as Class II milk.

(b) Class II milk shall be all skim milk and butterfat (1) contained in frozen storage cream; (2) used to produce ice cream and ice cream mixes and any product other than those classified as Class I milk pursuant to paragraph (a) of this section; (3) disposed of for livestock feed or dumped skim milk; and (4) in shrinkage not to exceed 2 percent of receipts of skim milk and butterfat, respectively, in producer and other source milk.

§ 911.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for such handler.

(b) Prorate the resulting amounts between such handler's receipts of skim milk and butterfat in producer milk and in other source milk.

§ 911.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified as Class II milk.

(b) Any skim milk or butterfat classified in one class shall be reclassified if later disposed of (whether in original or other form) by such handler or another handler in another class.

§ 911.44 *Transfers.* Skim milk or butterfat disposed of in the form of milk, skim milk, or cream by a handler either by transfer or diversion from a fluid milk plant shall be classified:

(a) As Class I milk if transferred or diverted to a fluid milk plant of another handler, except a producer-handler, unless utilization in Class II is claimed by the transferer-handler in writing to the market administrator on or before the 5th day after the end of the month within which such transaction occurred: *Provided,* That the skim milk or butterfat so assigned to Class II shall be limited to the amount thereof remaining in Class II in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 911.46 and any additional amounts of such skim milk or butterfat shall be assigned to Class I milk: *Provided further,* That if either or both handlers have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk.

(b) As Class I milk if transferred to a producer-handler.

(c) As Class I milk if transferred or diverted to a nonfluid milk plant, unless the following conditions are met:

(1) The handler claims classification in Class II milk;

(2) The market administrator is permitted to audit the books and records showing the utilization of all skim milk and butterfat received at such nonfluid milk plant for the purpose of verification; and

(3) An amount of skim milk and butterfat not less than that so transferred or diverted was used in Class II milk: *Provided,* That the skim milk and butterfat so assigned to Class II milk shall be limited to the amount thereof in Class II milk in such nonfluid milk plant, and any additional amounts of skim milk and butterfat so transferred or diverted shall be assigned to Class I milk.

§ 911.45 *Computation of the skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and for other obvious errors the report of receipts and utilization submitted by each handler and shall compute the pounds of skim milk and butterfat in Class I milk and Class II milk for such handler.

§ 911.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 911.45 the market administrator shall determine the classification of milk received from producers as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk shrinkage in producer milk determined pursuant to § 911.41 (b) (4),

(2) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk: *Provided,* That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

(3) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers according to its classification as determined pursuant to § 911.44 (a)

(4) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(5) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be called "overage"

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.

(c) Determine the weighted average butterfat content of the Class I and Class II milk computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 911.50 *Minimum prices.* Subject to the appropriate butterfat differential computed pursuant to § 911.54, each handler shall pay in the manner set forth in § 911.90 for producer milk received at his fluid milk plant(s) during each delivery period not less than the Class I and Class II prices per hundredweight set forth in § 911.51 and § 911.53, respectively.

§ 911.51 *Class I Milk.* The Class I price shall be an amount calculated by multiplying $6.30 by the formula index computed pursuant to § 911.52 and dividing by 100: *Provided,* That such price shall not be higher than the average price per hundredweight paid or reported to be paid for milk at the plants or places in § 911.51 (a) during the preceding month plus $3.00 nor lower than such paying price plus $2.00: *And provided further,* That in no event from the effective date hereof, through February 1954, shall such price be less than the Class I price pursuant to Order No. 42, regulating the handling of milk in the New Orleans, Louisiana, Marketing Area, at the 61–70 mile zone less 35 cents per hundredweight.

(a) Divide by 3.5 and multiply by 4.0 the average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the preceding month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture:

Present Operator and Location

Borden Co., Mt. Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

§ 911.52 *Formula index.* Based on data available on the 28th day of each month, or the first business day thereafter if the 28th is not a business day, the market administrator shall calculate a formula index for the following delivery period as follows:

(a) Divide the latest available monthly Wholesale Price Index for All Commodities (1947–49=100) as announced by the Bureau of Labor Statistics, U. S. Department of Labor, by 112.2.

(b) Divide by 3, the sum of the three latest monthly Indexes of Business Activity for the Jackson, Vicksburg, Laurel, and Hattiesburg Districts (1947–49=100) as announced by the Business Research Station, Mississippi State College, State College, Mississippi, and divide the resulting index by 129.8.

(c) Compute a labor-feed index as follows:

(1) Divide by 0.0372 the daily farm wage rate without board or room for the latest available month as reported by the Department of Agriculture for the State of Mississippi and multiply by 0.3;

(2) Divide by 0.0458 the average price paid per hundredweight for all mixed dairy feed, for the latest available month as reported by the Department of Agriculture for the State of Mississippi and multiply by 0.7.

(3) Add together the amounts determined pursuant to subparagraphs (1) and (2) of this paragraph.

(d) Add the results determined pursuant to paragraphs (a) (b) and (c) of this section, and divide by 3. The resulting number shall be known as the formula index and shall be rounded to the nearest one-tenth unit.

§ 911.53 *Class II milk.* The Class II price shall be the average of the basic or field prices reported to have been paid or to be paid for ungraded milk of 4.0 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 5th day after the end of the delivery period by the companies indicated below:

Present Operator and Location

Kraft Cheese Co., Newton, Miss.
Borden Co., Starkville, Miss.
Carnation Co., Tupelo, Miss.
Brookhaven Creamery, Brookhaven, Miss.
Pet Milk Co., Kosciusko, Miss.

§ 911.54 *Butterfat differential to handlers.* If the average butterfat content of producer milk allocated to any class pursuant to § 911.46 is more or less than 4.0 percent, there shall be added to the respective class price computed pursuant to § 911.50 for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent, or subtracted for each one-tenth of 1 percent that such average butterfat content is below 4.0 percent an amount equal to the butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago, as reported by the Department of Agriculture during the period listed below by the applicable factor so listed and dividing the result by 10:

(a) *Class I milk.* Multiply such price reported for the preceding month by 1.25 and round to the nearest one-tenth cent.

(b) *Class II milk.* Multiply such price reported for the current month by 1.15 and round to the nearest one-tenth cent.

§ 911.55 *Use of equivalent factors.* If for any reason a price, index, or wage rate specified by this subpart, for use in computing class prices and for other purposes is not reported or published in the manner described in this part, the market administrator shall use a price, index, or wage rate determined by the Secretary to be equivalent to or comparable with the factor which is specified.

APPLICATION OF PROVISIONS

§ 911.60 *Producer-handlers.* Sections 911.40 through 911.46, 911.50 through 911.55, 911.70 through 911.72, 911.80 through 911.83, and 911.90 through 911.95 shall not apply to a producer-handler.

DETERMINATION OF UNIFORM PRICES

§ 911.70 *Net obligation of each handler* The net obligation of each handler for milk received during each month from producers shall be a sum of money computed by the market administrator as follows: (a) Multiply the pounds of such milk in each class by the applicable class price, (b) add together the resulting amounts, (c) add the amounts computed by multiplying the pounds of overage deducted from each class by the applicable class price, and (d) add or subtract, as the case may be an amount, except those subject to the provisions of § 911.92, necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months.

§ 911.71 *Computation of the uniform price for each handler* For each of the months of August through February the market administrator shall compute for each handler the uniform price for milk received from producers as follows:

(a) To the amount computed pursuant to § 911.70 add, if the average butterfat content of milk received from producers by such handler is less than 4.0 percent, or subtract if such average butterfat content is more than 4.0 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential to producers computed pursuant to § 911.91, and multiply the result by the total hundredweight of such milk;

(b) Add the amount represented by any deductions made pursuant to paragraph (c) of this section for fractions of a cent in computing the uniform price for the preceding month;

(c) Divide the resulting amount by the total hundredweight of milk received from producers by such handler. The result, less any fraction of a cent per hundredweight shall be known as the uniform price for such handler for milk of 4.0 percent butterfat, f. o. b. fluid milk plant.

§ 911.72 *Computation of the uniform price for base milk and for excess milk for each handler.* For each of the months of March through July, the market administrator shall compute for each handler the uniform price for base milk and for excess milk received from producers as follows:

(a) To the amount computed pursuant to § 911.70 add, if the average butterfat content of milk received from producers by such handler is less than 4.0 percent, or subtract if such average butterfat content is more than 4.0 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential to producers computed pursuant to § 911.91 and multiply the result by the total hundredweight of such milk;

(b) Add the amount represented by any deductions made pursuant to § 911.71 (c) or (e) and (f) of this section for fractions of a cent in computing such uniform prices for the preceding month;

(c) Subject to the condition set forth in paragraph (d) of this section, compute the value of excess milk by multiplying the quantity of such milk by the Class II price;

(d) Compute the value of base milk received by such handler from producers by subtracting the value obtained pursuant to paragraph (c) of this section from the value obtained pursuant to paragraph (b) of this section: *Provided,* That, if such resulting value is greater than an amount computed by multiplying the pounds of base milk delivered by producers by the Class I price computed pursuant to § 911.51 such value in excess thereof shall be added to the value computed pursuant to paragraph (c) of this section to the extent that the excess price shall not exceed the base price as calculated in this subpart. Any additional value remaining shall be prorated on a volume basis between excess and base milk;

(e) Divide the result obtained in paragraph (d) of this section by the quantity of base milk received by such handler from producers. This result, less any fraction of a cent per hundredweight, shall be known as the uniform price per hundredweight for such handler for "base milk" of 4.0 percent butterfat content; and

(f) Divide the result obtained in paragraph (c) of this section by the quantity of excess milk received by such handler from producers. This result, less any fraction of a cent per hundredweight, shall be known as the uniform price per hundredweight for such handler for "excess milk" of 4.0 percent butterfat content.

BASE RATING

§ 911.80 *Base operating period.* The base operating period shall be the months of March through July.

§ 911.81 *Base forming period.* The base forming period for each year shall be the months of September through January immediately preceding the base operating period.

§ 911.82 *Determination of daily base.* The daily base of each producer shall be calculated by the market administrator, as follows: Divide the total pounds of milk received by a handler(s) from such producer during the base forming period by the number of days from the first day of delivery by such producer during such period to the last day of January, inclusive, but not less than 120 days.

§ 911.83 *Computation of base.* The base of each producer to be applied during the base operating period shall be a quantity of milk calculated by the market administrator in the following manner: Multiply the daily base of such producer by the number of days for which such producer's milk was delivered to such handler during the delivery period.

§ 911.84 *Base rules.* The following rules shall apply in connection with the establishment of bases:

(a) A base shall apply to deliveries of milk by the producer for whose account

that milk was delivered during the base forming period;

(b) Bases may be transferred by notifying the market administrator in writing before the last day of any month for which such base is to be transferred to the person named in such notice only as follows:

(1) In the event of the death, retirement, or entry into military service of a producer, the entire base may be transferred to a member(s) of such producer's immediate family who carries on the dairy operations.

(2) If a base is held jointly and such joint holding is terminated the entire base may be transferred to one of the joint holders.

(3) The entire daily base of a producer may be moved from one handler to another handler.

§ 911.85 *Announcement of established bases.* On or before March 1, of each year, the market administrator shall notify each producer and the handler receiving milk from such producers the daily base established by such producer.

PAYMENTS

§ 911.90 *Payments to producers.* Each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the last day of each delivery period for milk received during the first 15 days of the delivery period at not less than the price per hundredweight for Class II milk for the preceding delivery period.

(b) On or before the 15th day after the end of each of the delivery periods of August through February for milk received during such delivery period at not less than the uniform price per hundredweight computed for such handler pursuant to § 911.71, subject to the butterfat differential computed pursuant to § 911.91, less proper deductions authorized in writing by such producer and less payment made pursuant to paragraph (a) of this section.

(c) On or before the 15th day after the end of each of the delivery periods of March through July, after deducting the amount of payment made pursuant to paragraph (a) of this section, and proper deductions authorized in writing by such producer, for milk received during the delivery period as follows:

(1) At not less than the uniform price per hundredweight for base milk computed pursuant to § 911.72 for the quantity of base milk received from such producer, subject to the butterfat differential computed pursuant to § 911.91.

(2) At not less than the uniform price per hundredweight for excess milk computed pursuant to § 911.72 for the quantity of excess milk received from such producer, subject to the butterfat differential computed pursuant to § 911.91.

(d) In making the payments to producers pursuant to paragraphs (b) and (c) of this section each handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The delivery period and the identity of the handler and of the producer;

(2) The total pounds and average butterfat test of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of such deduction claimed by the handler, together with a description of the respective deductions; and

(6) The net amount of payment to such producer.

§ 911.91 *Producer butterfat differential.* In making payments to each producer there shall be added to the uniform price(s) for each one-tenth of 1 percent that the average butterfat content of such milk delivered by such producer is above 4.0 percent not less than, or there may be deducted from the uniform price for each one-tenth of 1 percent that the average butterfat content of such milk is below 4.0 percent not more than, an amount computed as follows: Multiply the simple average computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department of Agriculture during the month, by .115 and round to the nearest one-tenth of a cent.

§ 911.92 *Adjustments of accounts.* Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of an amount which is less than is required by this section, the handler shall make up such payment to the producer not later than the time of making payment to producers next following such disclosure.

§ 911.93 *Marketing service.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 911.90, shall deduct 7 cents per hundredweight or such amount not exceeding 7 cents per hundredweight, as may be prescribed by the Secretary and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to verify samples, tests, and weights of milk received from such producers and to provide producers with market information.

(b) In the case of producers for whom a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 15th day after the end of each month and pay such deduction to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount and average butterfat test of milk for which such deduction was computed for each producer. In lieu of such statement a handler may authorize the market administrator to furnish such cooperative association the information with respect to such producers reported pursuant to § 911.90 (d)

§ 911.94 *Expenses of administration.* As his pro rata share of the expense of administration of this subpart, each handler, except a producer-handler, shall pay to the market administrator on or before the 15th day after the end of the month, 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the month of (a) other source milk which is classified as Class I milk, and (b) milk from producers including such handler's own production.

§ 911.95 *Termination of obligations.* The provision of this section shall apply to any obligation under this subpart for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, to make available to the market administrator or his representatives all books and records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving

fraud or wilful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler with the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 911.100 *Effective time.* The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 911.101.

§ 911.101 *Suspension or termination.* The Secretary may suspend or terminate this subpart or any provision of this subpart whenever he finds this subpart or any provision of this subpart obstructs or does not tend to effectuate the declared policy of the act. This subpart shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 911.102 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator) such further acts shall be performed notwithstanding such suspension or termination.

§ 911.103 *Liquidation.* Upon the suspension or termination of the provisions of this subpart, except this section, the market administrator, or such liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignment or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 911.110 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his Agent or Representative in connection with any of the provisions of this subpart.

§ 911.111 *Separability of provisions.* If any provisions of this subpart, or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of this subpart, to other persons or circumstances shall not be affected thereby.

Order of the Secretary Directing That a Referendum Be Conducted Among the Producers Supplying Milk to the Central Mississippi Marketing Area; Determination of a Representative Period, and Designation of an Agent to Conduct Such Referendum

Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)), it is hereby directed that a referendum be conducted among the producers (as defined in the proposed order regulating the handling of milk in the Central Mississippi Marketing Area) who, during the month of June 1953, were engaged in the production of milk for sale in the marketing area specified in the aforesaid order to determine whether such producers favor the issuance of such order, which is filed simultaneously herewith.

The month of June 1953, is hereby determined to be the representative period for the conduct of such referendum.

A. T. Radigan is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for conducting of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F R. 5177) such referendum to be completed on or before the 25th day from the date this order is issued.

Done at Washington, D. C., this 4th day of August 1953.

[SEAL] E. T. BENSON,
Secretary of Agriculture.

[F. R. Doc. 53-6946; Filed, Aug. 6, 1953; 8:56 a. m.]

[7 CFR Part 916]

[Docket No. AO-247]

HANDLING OF MILK IN UPSTATE MICHIGAN MARKETING AREA

NOTICE OF HEARING ON PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and in accordance with the applicable rules of practice and procedure, as amended (7 CFR Part 900) notice is hereby given of a public hearing to be held in the Garfield Town Hall, Traverse City, Michigan, at 10:00 a. m., local time, September 15, 1953.

The public hearing is for the purpose of receiving evidence with respect to economic and marketing conditions which relate to the handling of milk for the Upstate Michigan marketing area and to the issuance of a marketing agreement and order regulating the handling of milk in said marketing area. The proposals set forth below have not received the approval of the Secretary of Agriculture and at the hearing evidence will be received relative to all aspects of the marketing conditions which are dealt with by the proposals and any modification thereof.

Marketing agreement and order proposed by the Michigan Milk Producers' Association:

DEFINITIONS

§ 916.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 601 et seq.)

§ 916.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 916.3 *U. S. D. A.* "U. S. D. A." means the United States Department of Agriculture.

§ 916.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 916.5 *Upstate Michigan Marketing Area.* "Upstate Michigan Marketing Area" hereinafter referred to as the "Marketing Area" means all the territory, including incorporated municipalities within the outer boundaries of the counties of Antrim, Benzie, Charlevoix, Cheboygan, Crawford, Emmet, Grand Traverse, Kalkaska, Leelanau, Manistee, Otsego, Presque Isle, and Wexford.

§ 916.6 *Handler.* "Handler" means a person who operates a plant in which milk is pasteurized or packaged for distribution in the marketing area and from which Class I milk is disposed of during the month in the marketing area.

§ 916.7 *Pool plant.* "Pool plant" means (a) a plant located within the marketing area from which Class I products are sold within the marketing area, or (b) a plant located outside the marketing area from which either:

(1) 20 percent or more of the total milk received at such plant during the month is disposed of in the marketing area as Class I other than to another pool plant, or

(2) 20 percent or more of the total milk received from dairy farmers at such plant during the month is moved to a pool plant(s)

§ 916.8 *Producer.* "Producer" means a dairy farmer who produces milk which is received directly from the farm at a pool plant or is diverted for a handler's account from such a plant.

§ 916.9 *Producer-handler.* "Producer-handler" means a person who is a handler and who produces milk, but receives no milk from other producers or from a cooperative association.

§ 916.10 *Producer milk.* "Producer milk" means milk delivered by one or more producers.

§ 916.11 *Other source milk.* "Other source milk" means all skim milk and

butterfat received by a pool plant in any form, other than that contained in producer milk.

§ 916.12 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers, duly organized as such under the laws of any State, which the Secretary determines:

(a) To be qualified under the standards set forth in the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act;"

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales or marketing milk or its products for its members.

MARKET ADMINISTRATOR

§ 916.20 *Designation.* The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal by, the Secretary.

§ 916.21 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 916.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay, out of the funds provided by § 916.75:

(1) The cost of his bond and of the bonds of his employees,

(2) His own compensation, and

(3) All other expenses, except those incurred under § 916.76, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided in this part, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 916.30 and 916.31, or (2) payments pursuant to §§ 916.70, 916.73, 916.75, 916.76, and 916.80;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) Audit records of all handlers to verify the reports and payments required pursuant to the provisions of this part; and

(i) Publicly announce the prices determined for each month as follows:

(1) On or before the 5th day of each month, the minimum class prices for the preceding month computed pursuant to §§ 916.51 and 916.52, and the handler butterfat differential computed pursuant to § 916.53, and

(2) On or before the 11th day of each month the uniform price for the preceding month, computed pursuant to § 916.62, and the producer butterfat differential computed pursuant to § 916.71.

REPORTS, RECORDS, AND FACILITIES

§ 916.30 *Monthly reports of receipts and utilization.* On or before the 5th working day of each month, each handler shall report to the market administrator for the preceding month, in the detail and on forms prescribed by the market administrator, the following with respect to (a) all producer milk received, (b) all skim milk and butterfat in any form received from other handlers, and (c) all other source milk (except any nonfluid milk product which is disposed of in the same form as received) received at a plant(s) described in § 916.6:

(1) The quantities of butterfat and skim milk contained in such receipts, and their sources;

(2) The utilization or disposition of such receipts; and

(3) Such other information with respect to such receipts and their utilization or disposition as the market administrator may prescribe.

§ 916.31 *Other reports.* (a) Each producer-handler and each handler shall make reports at such time and in such manner as the market administrator may request.

(b) On or before the 20th day of each month each handler who received milk from producers shall report his producer payroll for the preceding month which shall show:

(1) The pounds of milk received from each producer and the percentage of butterfat contained therein;

(2) The amount and date of payment to each producer (or to a cooperative association) and

(3) The nature and amount of each deduction or charge involved in the payments referred to in subparagraph (2) of this paragraph.

§ 916.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator, during the usual hours of business, such accounts and records of all of his operations and such facilities as are necessary to verify reports or to ascertain the correct information with respect to (a) the receipts and utilization or disposition of all skim milk and butterfat received, including all milk products received and disposed of in the same form, (b) the weights and tests for butterfat, skim milk and other contents of all milk and milk products handled, and (c) payments to producers and cooperative associations.

§ 916.33 *Retention of records.* All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That, if within such three-year period, the market administrator notifies a handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 916.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received at a handler plant (a) in milk from producers or from a cooperative association, (b) in any form from other handlers, and (c) in other source milk required to be reported pursuant to § 916.30, shall be classified (separately as skim milk and butterfat) in the classes set forth in § 916.41.

§ 916.41 *Classes of utilization.* Subject to the conditions set forth in §§ 916.42 and 916.43, the classes of utilization shall be:

(a) Class I utilization shall be all skim milk and butterfat—

(1) Disposed of for consumption in fluid form as milk, flavored milk, skim milk or buttermilk; and

(2) Not accounted for as Class II utilization.

(b) Class II utilization shall be all skim milk and butterfat—

(1) Disposed of for fluid consumption as sterilized flavored milk drinks or sweet or sour cream; or

(2) Used to produce ice cream or ice cream mix, cheese (including cottage cheese) dried whole milk, nonfat dry milk solids, evaporated or condensed whole or skim milk (sweetened or unsweetened) disposed of in bulk or in hermetically sealed cans, butter, or accounted for as used for livestock feed, or dumped as authorized by the market administrator; or

(3) In shrinkage of producer milk up to 2 percent or receipts from producers; or

(4) In shrinkage of other source milk.

§ 916.42 *Shrinkage.* (a) If producer milk is utilized in conjunction with other

source milk, the shrinkage shall be allocated prorata between the receipts of skim milk and butterfat in producer milk and other source milk.

(b) Producer milk transferred by a handler to another handler without first having been received for the purpose of weighing and testing in the transferror handler's plant shall be included in the receipts at the plant of the transferee handler for the purpose of computing his shrinkage and shall be excluded at the plant of the transferror handler in computing his shrinkage.

§ 916.43 *Transfers.* (a) Skim milk and butterfat disposed of from a pool plant to another handler in the form of milk or skim milk shall be Class I utilization, unless Class II utilization is indicated by both handlers in their reports submitted pursuant to § 916.30: *Provided,* That in no event shall the amount so classified in Class II be greater than the amount of producer milk used in such class by the transferee handler after allocating other source milk in his plant in series beginning with the lowest priced utilization.

(b) Skim milk and butterfat moved in the form of milk or skim milk by a pool plant to a person not a handler shall be Class I utilization unless all of the following conditions are met:

(1) Class II utilization is indicated by the handler in his report submitted pursuant to § 916.30, and a statement certifying to such Class II utilization is received by the market administrator from the operator of the plant to which such milk or skim milk is moved not later than the last day of month following the month of such movement.

(2) The operator of such plant had actually used in the month of such movement an equivalent amount of skim milk and butterfat in Class II, or moved such amount to another plant not operated by a handler which meets the requirements of subparagraph (3) of this paragraph and utilized in the month an equivalent amount of skim milk and butterfat in Class II.

(3) The operator of the transferee plant maintains books and records which are made available if requested by the market administrator and which are adequate for the verification of such Class II utilization.

§ 916.44 *Responsibility of handlers and reclassification.* All skim milk and butterfat shall be classified as Class I utilization unless the handler who first received such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 916.45 *Computation of skim milk and butterfat in each class.* For each month the market administrator shall correct for mathematical and obvious errors the monthly report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I and Class II utilization for such handler.

§ 916.46 *Allocation of butterfat classified.* The pounds of butterfat remaining after making the following computations shall be the pounds in each class allocated to milk received from producers:

(a) Subtract from the total pounds of butterfat in Class II utilization, the pounds of butterfat shrinkage allowed pursuant to § 916.41 (b) (3),

(b) Subtract from the pounds of butterfat remaining in each class, in series beginning with the lowest-priced utilization, the pounds of butterfat in other source milk;

(c) Subtract from the remaining pounds of butterfat in each class, the pounds of butterfat received from other handlers in such classes pursuant to § 916.43 (a), and

(d) Add to the remaining pounds of butterfat in Class II utilization the pounds subtracted pursuant to paragraph (a) of this section;

(e) If the remaining pounds of butterfat in all classes exceed the pounds of butterfat in milk received from producers, subtract such excess from the remaining pounds of butterfat in each class in series, beginning with the lowest-priced utilization.

§ 916.47 *Allocation of skim milk classified.* Allocate the pounds of skim milk in each class to milk received from producers in a manner similar to that prescribed for butterfat in § 916.46.

MINIMUM PRICES

§ 916.50 *Basic formula price.* The basic formula price to be used in determining the price per hundredweight of Class I utilization shall be the highest of the prices computed pursuant to paragraphs (a), (b) and (c) of this section.

(a) The average of the basic or field prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the U. S. D. A.:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopervillé, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed by adding together the plus values computed pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the mid-point of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the U. S. D. A. during the month; subtract 3 cents, add 20 percent thereof and multiply by 3.5.

(2) From the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the U. S. D. A., deduct 5.5 cents and then multiply by 8.2.

(c) The average price per hundredweight computed by adding together the basic or field prices reported to have been paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants:

The Carnation Co., Scottville, Mich.
The Beatrice Foods Co., Cadillac, Mich.
The Mancelona Cheese Co., Mancelona, Mich.

§ 916.51 *Class I milk price.* The minimum price per hundredweight to be paid by each handler, f. o. b. his plant as described in § 916.7 for milk of 3.5 percent butterfat content received from producers or from cooperative associations, during the month, which is classified as Class I utilization shall be the basic formula price plus $1.20.

§ 916.52 *Class II milk price.* The minimum price per hundredweight to be paid by each handler, f. o. b. his plant as described in § 916.7 for milk of 3.5 percent butterfat content received from producers or from a cooperative association, during the month, which is classified as Class II utilization, shall be the price as computed by the market administration pursuant to § 916.50 (c)

§ 916.53 *Handler butterfat differential.* There shall be added to or subtracted from, as the case may be, the prices of milk for each class as computed to §§ 916.51 and 916.52, for each one-tenth of one percent variation in the average butterfat test of the milk in each class above or below 3.5 percent the amounts determined as follows:

(a) *Class I milk.* Add 2 cents to the producer butterfat differential determined pursuant to § 916.71.

(b) *Class II milk.* The amount determined pursuant to § 916.71.

DETERMINATION OF PRICE TO PRODUCERS

§ 916.60 *Computation of value of milk for each handler.* (a) The value of producer milk received during the month by each handler shall be a sum of money computed by the market administrator by multiplying by the applicable class price, adjusted pursuant to § 916.53, the total combined hundredweight of skim milk and butterfat received in producer milk allocated to each class pursuant to §§ 916.46 and 916.47, adding together the resulting amounts, and if such handler has a utilization greater than has been accounted for as received from all sources, add an amount computed by multiplying any such excess utilization classified pursuant to §§ 916.46 (e) and 916.47 by the applicable class prices.

(b) For each delivery period, the obligation to the producer equalization fund for each handler who operates a

nonpool plant shall be computed by the market administrator by multiplying the hundredweight of milk disposed of from such plant in the marketing area as Class I by the difference between the Class I and Class II prices for the month, adjusted by the butterfat differentials provided in § 916.53 to the average butterfat test of such milk.

§ 916.61 *Computation of the 3.5 percent value of all producer milk.* For each month, the market administrator shall compute the 3.5 percent value of producer milk by:

(a) Combining into one total the individual values of milk of all handlers, computed pursuant to paragraph (a) of § 916.60;

(b) Adding payments computed pursuant to § 916.60 (b)

(c) Adding or subtracting any charges or credits pursuant to § 916.80 (a) or (b)

(d) Adding, if the weighted average butterfat test of all producer milk represented in paragraph (a) of this section is less 3.5 percent, or subtracting if the weighted average butterfat test of such milk is more than 3.5 percent, an amount computed by multiplying the total pounds of butterfat represented by the difference of such average butterfat test from 3.5 percent by the butterfat differential provided in § 916.71 multiplied by 10; and

(e) Adding not less than one-half of the unobligated balance in the producer-equalization fund.

§ 916.62 *Uniform price.* For each month the uniform price shall be computed by:

(a) Dividing the amount computed pursuant to § 916.61 by the hundredweight of milk received from producers represented by the values included in § 916.61 (a) and

(b) Subtracting not less than 6 cents or more than 7 cents.

§ 916.63 *Notification.* On or before the 11th day after the end of each month the market administrator shall notify each handler of:

(a) The amounts and values of his milk in each class and the total of such amounts and values;

(b) The amount due such handler from the producer-equalization fund or the amount to be paid by such handler to the producer-equalization fund, as the case may be; and

(c) The totals of the minimum amounts to be paid by such handler pursuant to §§ 916.70, 916.73, 916.75, 916.76, and 916.80.

PAYMENT FOR MILK

§ 916.70 *Time and method of payment.* (a) On the 1st day of each month each handler shall make a partial settlement with the producers from whom he has received milk during the preceding month amounting to 40 percent of the estimated amount due for the previous month.

(b) On or before the 15th day after the end of each month each handler who received milk from producers or from a cooperative association shall pay for milk received during such month to each producer, or to a cooperative association for milk received from such association or from producers for the account of such association, the uniform price as provided in § 916.62 adjusted by the butterfat differential pursuant to § 916.71.

§ 916.71 *Producer butterfat differential.* In making payments pursuant to § 916.70, the uniform price shall be increased or decreased for each one-tenth of one percent of butterfat content in the milk received from each producer or a cooperative association above or below 3.5 percent, as the case may be, by a butterfat differential of 7 cents when the average price of butter as described in § 916.50 (b) (1) is 60 cents, which differential shall be increased one-half cent for each full 5 cents variance in such price of butter above 60 cents and decreased one-half cent for each full 5-cent variance in such price of butter below 64.99 cents.

§ 916.72 *Producer-equalization fund.* The market administrator shall establish and maintain a separate fund, known as the "producer-equalization fund" into which he shall deposit all payments received pursuant to § 916.73 and out of which he shall make all payments pursuant to § 916.74.

§ 916.73 *Payments to the producer-equalization fund.* On or before the 13th day after the end of each month, each handler

(a) Whose value of milk is required to be computed pursuant to § 916.60 (a) shall pay to the market administrator any amount by which such value for such month is greater than the minimum amount required to be paid by him pursuant to § 916.70; and

(b) Who is required to make payment pursuant to § 916.60 (b) shall pay such amount to the market administrator.

§ 916.74 *Payment out of the producer-equalization fund.* On or before the 14th day after the end of each month, the market administrator shall pay to each handler any amount by which the value of milk for such handler for the month pursuant to § 916.60 (a) is less than the total minimum amount required to be paid by him pursuant to § 916.70, less any unpaid obligations of such handler to the market administrator pursuant to § 916.73: *Provided,* That if the balance in the producer-equalization fund is insufficient to make all payments to all such handlers pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

§ 916.75 *Expense of administration.* As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 13th day after the end of each month 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the month of milk from producers, including milk of such handler's own production.

§ 916.76 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments pursuant to § 916.70 for milk received from each producer (including milk of such handler's own production) at a plant not operated by a cooperative association of which such producer is a member, shall deduct 7 cents per hundredweight, or such amount not exceeding 7 cents per hundredweight as the Secretary may prescribe, and, on or before the 13th day after the end of each month, shall pay such deductions to the market administrator. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from producers and to provide producers with market information, such services to be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers whose milk is received at a plant not operated by a cooperative association of which such producers are members, and for whom a cooperative association is actually performing the services described in paragraph (a) of this section, as determined by the Secretary, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from payments required pursuant to § 916.70 as may be authorized by such producers, and pay such deductions on or before the 13th day after the end of the month to the cooperative association rendering such services of which such producers are members.

ADJUSTMENT OF ACCOUNTS

§ 916.80 *Payments.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in moneys due:

(a) To the market administrator from such handler.

(b) To such handler from the market administrator, or

(c) To any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due; and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred, following the 5th day after such notice.

§ 916.81 *Overdue accounts.* Any unpaid obligation of a handler or of the market administrator pursuant to §§ 916.73, 916.74, 916.75, 916.76, and 916.80 shall be increased one-half of one percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

APPLICATION OF PROVISIONS

§ 916.90 *Milk caused to be delivered by cooperative associations.* Milk referred to in this part as received from producers by a handler shall include milk of producers caused to be delivered to such handler by a cooperative association.

§ 916.91 *Producer-handler exemption.* A producer-handler shall be exempt from

all provisions of this part except §§ 916.31, 916.32, 916.33, and 916.60.

§ 916.92 *Milk diverted for manufacture.* The cooperative association shall be the handler on milk diverted to a nonhandler manufacturing plant.

TERMINATION OF OBLIGATIONS

§ 916.100 *Termination of obligations.* (a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator receives the handler's report of utilization of the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producers or association, or, if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books or records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which such books and records pertaining to such obligation are made available to the market administrator or his representative.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or wilful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 916.110 *Effective time.* The provisions of this part, or of any amendment to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 916.111 *When suspended or terminated.* The Secretary shall, whenever he finds that this part, or any provision thereof, obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this part or any such provision thereof.

§ 916.112 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator) such further acts shall be performed notwithstanding such suspension or termination.

§ 916.113 *Liquidation.* Under the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers, in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 916.120 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 916.121 *Separability of provisions.* If any provision of this part, or its application to any person or circumstances, is held invalid the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Nelson's Cloverdale Farms, on behalf of 16 milk dealers in Northern Michigan has requested that the proposed marketing area include the counties of Midland, Saginaw, Isabelle, Mecosta, Newaygo, Oceana, and all the counties in the lower peninsula of Michigan north of these named counties.

Reed City Dairy has requested that Mecosta County be included in the marketing area.

Copies of this notice of hearing may be procured from the Hearing Clerk, United States Department of Agriculture in Room 1353, South Building, Washington, D. C., or may there be inspected.

Issued at Washington, D. C., this 4th day of August 1953.

[SEAL] ROY W. LENNARTSON, *Assistant Administrator.*

[F. R. Doc. 53-6345; Filed, Aug. 6, 1953; 8:56 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 3]

[Docket No. 10603]

CLASS B FM BROADCAST STATIONS

REVISED TENTATIVE ALLOCATION PLAN

1. Notice of further proposed rule making in the above entitled matter is hereby given.

2. It is proposed to amend the Revised Tentative Allocation Plan for Class B FM brodcast stations as follows:

General area	Channels	
	Delete	Add
Bay Shore, N. Y.		230
New York City, N. Y.	230	

3. The purpose of the proposed amendment is to provide a Class B channel in Bay Shore, New York, thereby facilitating consideration of a pending application requesting a Class B assignment there.

4. Authority for the adoption of the proposed amendment is contained in sections 4 (i) 301, 303 (c) (d) (f) and (r) and 307 (b) of the Communications Act of 1934, as amended.

5. Any interested party who is of the opinion that the proposed amendment should not be adopted or should not be adopted in the form set forth herein may file with the Commission on or before August 31, 1953, a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments or briefs. The Commission will consider all such comments that are submitted before taking action in this matter, and if any comments appear to warrant the holding or a hearing or oral argument, notice of the time and place of such hearing or oral argument will be given.

6. In accordance with the provisions of § 1.784 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: July 29, 1953.

Released: July 31, 1953.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 53-6391; Filed, Aug. 6, 1953; 8:45 a. m.]

[47 CFR Part 3]

[Docket No. 10618]

TELEVISION BROADCAST STATIONS

TABLE OF ASSIGNMENTS

1. Notice is hereby given that the Commission has received a proposal for rule making in the above-entitled matter.

2. The Commission has before it a petition filed on June 3, 1953, by Owensboro On The Air, Inc., Owensboro, Kentucky, and now made part of this docket, requesting an amendment of § 3.606, table of assignments, rule governing Television Broadcast Stations as follows:

City	Channel No.	
	Present	Proposed
Hatfield, Ind.	None	9+

3. In support of its requested amendment, petitioner urges that the proposed assignment will foster competition between television stations in the area, that it would help to meet the needs of Owensboro and its environs; and that it would meet all the requirements of the rules.

4. Authority for the adoption of the proposed amendments is contained in sections 4 (i) 301, 303 (c) (d) (f) and (r) and 307 (b) of the Communications Act of 1934, as amended.

5. Any interested party who is of the opinion that the amendment proposed by petitioner should not be adopted or should not be adopted in the form set forth herein may file with the Commission on or before August 28, 1953, a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments or briefs. The Commission will consider all such comments that are submitted before taking action in this matter, and if any comments appear to warrant the holding of a hearing or oral argument, notice of the time and place of such hearing or oral argument will be given.

6. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: July 30, 1953.

Released: July 31, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6889; Filed, Aug. 6, 1953; 8:45 a. m.]

[47 CFR Part 3]

[Docket No. 10619]

TELEVISION BROADCAST STATIONS

TABLE OF ASSIGNMENTS

1. Notice is hereby given that the Commission has received proposals for rule making in the above-entitled matter.

2. The Commission has before it a petition filed by Sparton Broadcasting Company, Jackson, Michigan, on June 2, 1953, and a petition filed by Jackson Broadcasting and Television Corporation, Jackson, Michigan, and now made part of this docket, requesting an amendment of § 3.606, table of assignments, rules governing Television Broadcast Stations as follows:

City	Channel No.	
	Present	Proposed
Parma, Mich.	None	10–

The Commission also has before it for consideration a mutually exclusive petition filed by the Triad Television Association, Onondaga, Michigan, on April 24, 1953 requesting an amendment of the table of assignments as follows:

City	Channel No.	
	Present	Proposed
Onondaga, Mich.	None	10–

On June 15, 1953, Triad Television Association filed a supplement to its petition in which it suggested that the assignment of Channel 10 be made to Parma-Onondaga in combination so as to make the assignment available to both communities.

3. In support of the requested assignment petitioners urge that the proposed assignment is technically feasible, that the area is an important one with a large population, and that the assignment would provide competition between the television stations in the area.

4. Authority for the adoption of the proposed amendment is contained in sections 4 (i) 301, 303 (c) (d) (f) and (r) and 307 (b) of the Communications Act of 1934, as amended.

5. Any interested party who is of the opinion that the amendment proposed by one of the petitioners should not be adopted or should not be adopted in the form set forth herein may file with the Commission on or before August 28, 1953, a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments or briefs. The Commission will consider all such comments that are submitted before taking action in this matter, and if any comments appear to warrant the holding of a hearing or oral argument, notice of the time and place of such hearing or oral argument will be given.

6. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: July 30, 1953.

Released: July 31, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6890; Filed, Aug. 6, 1953; 8:45 a. m.]

[47 CFR Part 9]

[Docket No. 10600]

AERONAUTICAL SERVICES

AIRCRAFT RADIO STATIONS; FREQUENCIES AVAILABLE

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. It is proposed to amend § 9.312 (c) of Part 9 of the Commission's rules and regulations governing Aeronautical Services, effective October 1, 1953, as set forth below, to bring into force in accordance with that portion of the agreement concluded at the Extraordinary Administrative Radio Conference (Geneva, 1951) which made the frequency 8364 kc. available for assignment to aircraft and survival craft for communicating with stations of the maritime mobile service, in lieu of the frequency 8280 kc., presently available.

3. In order to provide for the exchange of radiotelegraph communications with stations of the maritime mobile service, aircraft may utilize the frequencies allocated to the maritime service. The center calling frequency in each of the calling bands between 4000 and 23,000 kc/s as shown in paragraph 775 of the Atlantic City agreement is reserved as far as possible for the use of aircraft desiring to communicate with stations of the maritime mobile service. These frequencies, including the frequency 8364 kc., are available for assignment to aircraft stations as provided in § 9.312 (i) of the Commission's rules. In addition paragraph 780 of the Atlantic City agreement provides that the frequency 8364 kc. must be used by lifeboats, liferafts and other survival craft equipped to transmit on frequencies between 4000 and 23,000 kc/s desiring to establish search and rescue communications with stations of the maritime mobile service.

4. The authority for the proposed amendment is contained in section 303 (c) (f) and (r) of the Communications Act of 1934, as amended.

5. Any interested person may file with the Commission, on or before August 14, 1953, a written statement or brief in support of, or in opposition to, the proposed amendment. Comments or briefs

in reply to the original comments or briefs may be filed within 7 days from the last day for filing the described original comments or briefs. The Commission will consider all comments, briefs, and statements before taking final action in this proceeding. If any comments are received which appear to warrant the Commission in holding an oral argument before final action is taken, notice of the time and place of such oral argument will be given such interested parties.

6. In accordance with the provisions of § 1.764 of the Commission's rules, an original and fourteen copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: July 29, 1953.

Released: July 30, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

It is proposed to amend § 9.312 (e) of Part 9 of the Commission's rules and regulations governing Aeronautical Services to read as follows:

(e) 8364 kilocycles: Frequency for use by lifeboats, liferafts and other survival craft for search and rescue communications with stations of the maritime mobile service.

[F. R. Doc. 53-6932; Filed, Aug. 6, 1953; 8:46 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Fiscal Service, Bureau of the Public Debt

[1953 Dept. Circular 927]

2⅝ PERCENT TREASURY CERTIFICATES OF INDEBTEDNESS OF SERIES D–1954

OFFERING OF CERTIFICATES

I. *Offering of certificates.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions, at par, from the people of the United States for certificates of indebtedness of the United States, designated 2⅝ percent Treasury Certificates of Indebtedness of Series D–1954, in exchange for 2 percent Treasury Certificates of Indebtedness of Series C–1953, maturing August 15, 1953. The amount of the offering under this circular will be limited to the amount of maturing certificates tendered in exchange and accepted.

II. *Description of certificates.* 1. The certificates will be dated August 15, 1953, and will bear interest from that date at the rate of 2⅝ percent per annum, payable with the principal at maturity on August 15, 1954. They will not be subject to call for redemption prior to maturity.

2. The income derived from the certificates shall be subject to all taxes, now or hereafter imposed under the Internal Revenue Code, or laws amendatory or supplementary thereto. The certificates shall be subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but shall be exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The certificates will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer certificates will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000. The certificates will not be issued in registered form.

5. The certificates will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States certificates.

III. *Subscription and allotment.* 1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies.

2. The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of certificates applied for, and to close the books as to any or all subscriptions at any time without notice; and any action he may take in these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. *Payment.* 1. Payment at par for certificates allotted hereunder must be made on or before August 17, 1953, or on later allotment, and may be made only in Treasury Certificates of Indebtedness of Series C–1953, maturing August 15, 1953, which will be accepted at par, and should accompany the subscription. The full amount of interest due on the certificates surrendered will be paid following acceptance of the certificates.

V *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment for certificates allotted, to make delivery of certificates on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive certificates.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] G. M. HUMPHREY,
Secretary of the Treasury.

[F. R. Doc. 53-6923; Filed, Aug. 6, 1953; 8:52 a. m.]

United States Coast Guard

[CGFR 53-32]

APPROVAL OF EQUIPMENT AND CHANGE IN MANUFACTURER'S ADDRESS

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order No. 120 dated July 31, 1950 (15 F. R. 6521) and in compliance with the authorities cited below with each item of equipment: *It is ordered,* That:

(a) All the approvals listed in this document which extends approvals previously published in the FEDERAL REGISTER are prescribed and shall be in effect for a period of five years from their respective dates as indicated at the end of each approval, unless sooner canceled or suspended by proper authority; and

(b) All the other approvals listed in this document (which are not covered by paragraph (a) above) are prescribed and shall be in effect for a period of five years from date of publication in the FEDERAL REGISTER unless sooner canceled or suspended by proper authority; and

(c) The change in address of the manufacturer of approved equipment shall be made as indicated below.

BUOYANT CUSHIONS, KAPOK, STANDARD

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.007/69/0, standard kapok buoyant cushion, U. S. C. G. Specification Subpart 160.007, manufactured by the Denison Mattress Factory, 1001–31 West Owing Street, Denison, Tex. (Extension of the approval published in FEDERAL REGISTER dated July 1, 1948; effective July 1, 1953.)

Approval No. 160.007/71/0, standard kapok buoyant cushion, U. S. C. G. Specification Subpart 160.007, manufactured by the Hacker Boat Co., 9 Judge Street, Mount Clemens, Mich. (Extension of the approval published in FEDERAL REGISTER dated July 1, 1948; effective July 1, 1953.)

(R. S. 4405, 4491, 54 Stat. 164, 166, as amended; 46 U. S. C. 375, 483, 526e, 526p; 46 CFR 160.007)

BUOYANT CUSHIONS—NON-STANDARD

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.008/379/0, 15" x 15" x 2" rectangular buoyant cushion, 20 oz. kapok, dwg. No. 3–17–48, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn 2, N. Y. (Extension of the approval published in FEDERAL REGISTER dated July 1, 1948; effective July 1, 1953.)

Approval No. 160.008/382/0, 15" x 15" x 2" rectangular buoyant cushion, 20 oz. kapok, dwg. No. 12–31–47, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn 2, N. Y. (Extension of the approval published in FEDERAL REGISTER July 1, 1948; effective July 1, 1953.)

Rectangular buoyant cushions, manufactured by Merit Manufacturing Corp., 92–15 One Hundred and Seventy-second Street, Jamaica, Long Island, N. Y., in the following sizes with the amount of kapok indicated for each size:

Approval No.	Size (inches)	Kapok (ounces)	Dwg. No., dated Apr. 15, 1948
160.008/387/0	13 x 18 x 2	22	101
160.008/388/0	13 x 25 x 2	30	102
160.008/389/0	16 x 18 x 2	26	103
160.008/390/0	14½ x 25¾ x 2	35	104
160.008/391/0	14½ x 29¾ x 2	40	105
160.008/392/0	23½ x 16 x 2	36	106

(Extension of the approvals published in FEDERAL REGISTER dated May 15, 1948; effective May 15, 1953.)

Approval No. 160.008/393/0, 15" x 15" x 2" rectangular buoyant cushion, 20 oz. kapok, dwg. No. 107 dated April 27, 1948, manufactured by Merit Manufacturing Corp., 92–15 One hundred and Seventy-second Street, Jamaica, Long Island, N. Y. (Extension of the approval published in FEDERAL REGISTER dated June 9, 1948; effective June 9, 1953.)

Approval No. 160.008/395/0, 12" x 14" x 2" seat, 15 oz. kapok; 12" x 14" x 2" back, 15 oz. kapok; double buoyant cushion, dwg. No. 5–11–48, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn 2, N. Y. (Extension of the approval published in FEDERAL REGISTER dated July 1, 1948; effective July 1, 1953.)

Approval No. 160.008/396/0, 15" x 15" x 2" seat, 20 oz. kapok; 15" x 15" x 2" back, 20 oz. kapok; double buoyant cushion, dwg. No. 5–11–48, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn 2, N. Y. (Extension of the approval published in FEDERAL REGISTER dated July 1, 1948; effective July 1, 1953.)

Approval No. 160.008/397/0, 12" x 67" x 2" rectangular buoyant cushion, 72 oz. kapok, dwg. No. 5–5–48, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn 2, N. Y. (Extension of the approval published in FEDERAL REGISTER dated July 1, 1948; effective July 1, 1953.)

Approval No. 160.008/561/0, 15" x 15" x 2" rectangular buoyant cushion, 20 oz. kapok, American Pad & Textile Co. dwg. Nos. B–46, dated December 22, 1941, revised March 6, 1946, and A–764, dated April 9, 1953, manufactured by The American Pad & Textile Co., Greenfield, Ohio, for Ransford-Johnson & Co., Inc., 855 Avenue of the Americas, New York 1, N. Y.

Approval No. 160.008/562/0, 15" x 15" x 2" rectangular buoyant cushion, 20 oz. kapok, The Safegard Corp. dwg. dated October 20, 1952, manufactured by The Safegard Corp., Box 66, Station B, Cincinnati, Ohio, for Adolph Kiefer & Co., Glenview, Ill.

Rectangular buoyant cushions manufactured by The Safegard Corp., Box 66, Station B, Cincinnati, Ohio, dwg. dated April 17, 1953, in the following sizes with the amount of kapok indicated for each size:

Approval No.	Size (inches)	Kapok (ounces)
160.008/563/0	12 x 24 x 2	26.6
160.008/564/0	12 x 26 x 2	27.7
160.008/565/0	14 x 22 x 2	27.4
160.008/566/0	14 x 24 x 2	29.9
160.008/567/0	14 x 26 x 2	32.4
160.008/568/0	14 x 28 x 2	34.8
160.008/569/0	14 x 30 x 2	37.3
160.008/570/0	14 x 32 x 2	39.8
160.008/571/0	14 x 34 x 2	42.3

(R. S. 4405, 4491, 54 Stat. 164, 166, as amended; 46 U. S. C. 375, 489, 526e, 526p; 46 CFR 160.008)

GAS MASKS, SELF-CONTAINED BREATHING APPARATUS, AND SUPPLIED-AIR RESPIRATORS

Approval No. 160.011/10/1, Bullard Ammonia gas mask, Type 42CM–3, Bureau of Mines Approval No. BM–1425, consisting of BM–1425 canister, BM–1423 facepiece, and BM–1423 canister harness, manufactured by E. D. Bullard Co., 275 Eighth Street, San Francisco 3, Calif. (Extension of the approval published in FEDERAL REGISTER dated May 15, 1948; effective May 15, 1953.)

Approval No. 160.011/20/1, Bullard Multi-gas Universal gas mask, Type 31–MG, Bureau of Mines Approval No. 1432, consisting of BM–1432 canister, BM–1432 timer, BM–1432 canister harness, and BM–1423 facepiece, manufactured by E. D. Bullard Co., 275 Eighth Street, San Francisco 3, Calif. (Extension of the approval published in FEDERAL REGISTER dated May 15, 1948; effective May 15, 1953.)

Approval No. 160.011/21/1, Bullard Smoke-Eater Universal gas mask, Type 31–SE, Bureau of Mines Approval No. 1433, consisting of BM–1433 canister, BM–1432 timer, BM–1432 harness, and BM–1423 facepiece, manufactured by E. D. Bullard Co., 275 Eighth Street, San Francisco 3, Calif. (Extension of the approval published in FEDERAL REGISTER dated May 15, 1948; effective May 15, 1953.)

(R. S. 4405, 4417a, 4426, 4491, 49 Stat. 1544, 54 Stat. 1028, and sec. 5, 55 Stat. 244, 245, as amended; 46 U. S. C. 367, 375, 391a, 404, 463a, 489, 50 U. S. C. 1275; 46 CFR 160.011)

DAVITS, LIFEBOAT

Approval No. 160.032/50/1, gravity davit, type G135S, approved for maximum working load of 27,000 pounds per set (13,500 pounds per arm) using 2-part falls, identified by general arrangement dwg. No. 3450 dated December 15, 1952, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J. (Reinstates and supersedes Approval No. 160.032/50/0 terminated in the FEDERAL REGISTER October 1, 1952.)

Approval No. 160.032/53/1, mechanical davit, crescent sheath screw, type C–26, approved for maximum working load of 5,070 pounds per set (2,535 pounds per arm) identified by general arrangement dwg. No. 1952 dated March 17, 1941, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J. (Reinstates and supersedes Approval No. 160.032/53/0 terminated in the FEDERAL REGISTER dated October 1, 1952.)

Approval No. 160.032/133/0, mechanical davit, crescent sheath screw, type B, approved for maximum working load of 12,700 pounds per set (6,350 pounds per arm) identified by general arrangement dwg. No. DC–220 dated January 1952, manufactured by Marine Safety Equipment Corp., Point Pleasant, N. J.

Approval No. 160.032/135/0, mechanical davit, aluminum straight boom sheath screw, type B–25A, approved for maximum working load of 5,000 pounds per set (2,500 pounds per arm) using 5-part falls, identified by arrangement dwg. No. 3408 dated July 7, 1952, and revised June 9, 1953, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J.

(R. S. 4405, 4417a, 4426, 4481, 4488, 4491, 49 Stat. 1544, 54 Stat. 346, and sec. 5, 55 Stat. 244, 245, as amended; 46 U. S. C. 367, 375, 391a, 404, 474, 481, 489, 1333, 50 U. S. C. 1275; 46 CFR 160.032)

MECHANICAL DISENGAGING APPARATUS, LIFEBOAT

Approval No. 160.033/47/0, Rottmer type size 298–C releasing gear, approved for maximum working load of 25,000 pounds per set (12,500 pounds per hook) identified by arrangement dwg. No. 3372–4C dated November 1, 1951, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J.

(R. S. 4405, 4417a, 4426, 4488, 4491, 49 Stat. 1544, 54 Stat. 346, and sec 5, 55 Stat. 244, 245, as amended; 46 U. S. C. 367, 375, 391a, 404, 481, 489, 1333, 50 U. S. C. App. 1275; 46 CFR 160.033)

LIFEBOATS

Approval No. 160.035/8/1, 12.0' x 4.5' x 1.92' steel, oar-propelled lifeboat, 6-person capacity, identified by general arrangement dwg. No. G–1206 dated April 2, 1952 and revised April 14, 1953, manufactured by C. C. Galbraith & Son, Inc., 99 Park Place, New York 7, N. Y. (Reinstates and supersedes Approval No. 160.035/8/0 terminated in the FEDERAL REGISTER dated October 1, 1952.)

Approval No. 160.035/19/1, 24.0' x 7.0' x 3.0' steel, oar-propelled lifeboat, 30-person capacity, identified by general arrangement dwg. No. G–2430 dated February 16, 1953 and revised April 16, 1953, manufactured by C. C. Galbraith & Son, Inc., 99 Park Place, New York, N. Y. (Reinstates and supersedes Approval No. 160.035/19/0 terminated in the FEDERAL REGISTER dated October 1, 1952.)

Approval No. 160.035/32/1, 18.0' x 6.25' x 2.75' aluminum, oar-propelled lifeboat, 18-person capacity, identified by

construction and arrangement dwg. No. 3420 dated August 20, 1952, and revised March 26, 1953, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J. (Reinstates and supersedes Approval No. 160.035/32/0 terminated in the FEDERAL REGISTER dated October 1, 1952.)

Approval No. 160.035/34/1, 18.0' x 5.75' x 2.42' steel, oar-propelled lifeboat, 15-person capacity, identified by construction and arrangement dwg. No. 757–1 dated April 1, 1953, and revised April 9, 1953, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J. (Reinstates and supersedes Approval No. 160.035/34/0 terminated in the FEDERAL REGISTER dated October 1, 1952.)

Approval No. 160.035/38/1, 24.0' x 7.75' x 3.33' steel, motor-propelled lifeboat without radio cabin (Class B), 33-person capacity, identified by construction and arrangement dwg. No. 245–E dated November 20, 1952 and revised April 4, 1953, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy. N. J. (Reinstates and supersedes Approval No. 160.035/38/0 terminated in the FEDERAL REGISTER dated October 1, 1952.)

Approval No. 160.035/59/1, 28.0' x 9.79' x 4.13' steel, motor-propelled lifeboat without radio cabin (Class B) 64-person capacity, identified by construction and arrangement dwg. No. 2413 dated April 29, 1953, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J. (Reinstates and supersedes Approval No. 160.035/59/0 terminated in the FEDERAL REGISTER dated October 1, 1952.)

Approval No. 160.035/173/1, 30.0' x 10.0' x 4.13' steel, hand-propelled lifeboat, 72-person capacity, identified by construction and arrangement dwg. No. 1820 dated January 22, 1953 and revised April 29, 1953, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J. (Reinstates and supersedes Approval No. 160.035/173/0 terminated in the FEDERAL REGISTER dated March 18, 1953.)

Approval No. 160.035/181/1, 22.0' x 7.5' x 3.17' steel, oar-propelled lifeboat, 31-person capacity, identified by arrangement and construction dwg. No. 3196 dated August 25, 1952, and revised April 16, 1953, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J. (Supersedes Approval No. 160.035/181/0 published in the FEDERAL REGISTER dated August 6, 1948.)

Approval No. 160.035/264/0, 28.0' x 9.0' x 3.96' aluminum, oar-propelled lifeboat, 59-person capacity, identified by construction and arrangement dwg. No. 3323 dated December 21, 1949, and revised April 13, 1953, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J.

Approval No. 160.035/287/0, 28.0' x 9.0' x 4.0' steel, hand-propelled lifeboat, 60-person capacity, identified by construction and arrangement dwg. No. 3396 dated February 7, 1952, and revised March 14, 1953, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J.

Approval No. 160.035/305/0, 26.0' x 7.75' x 3.33' steel, oar-propelled lifeboat, 40-person capacity, identified by general arrangement dwg. No. G–2640 dated March 13, 1953 and revised May 4, 1953, manufactured by C. C. Galbraith & Son, Inc., 99 Park Place, New York 7, N. Y.

(R. S. 4405, 4417a, 4426, 4481, 4488, 4491, 4492, sec. 11, 35 Stat. 428, 49 Stat. 1544, 54 Stat. 346, and sec. 5, 55 Stat. 244, 245, as amended; 46 U. S. C. 367, 375, 391a, 396, 404, 474, 481, 489, 490, 1333, 50 U. S. C. App. 1275; 46 CFR 160.035)

PUMPS, BILGE, LIFEBOAT

Approval No. 160.044/3/0, Size No. 1 lifeboat bilge pump, identified by assembly dwg. No. 270 dated June 7, 1945, manufactured by Allied Marine Equipment, Division of Tap-Rite Products Corp., 204 Railroad Avenue, Hackensack, N. J.

Approval No. 160.044/10/0, size No. 3 lifeboat bilge pump, identified by general arrangement dwg. No. 3463 dated February 5, 1953, and revised April 30, 1953, submitted by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J.

(R. S. 4405, 4417a, 4488, 4491, secs. 1, 2, 49 Stat. 1544, 54 Stat. 346, sec. 5, 55 Stat. 244, 245, as amended; 46 U. S. C. 367, 375, 391a, 481, 489, 1333, 50 U. S. C. App. 1275; 46 CFR 160.044)

FIRE EXTINGUISHERS, PORTABLE, HAND CARBON-TETRACHLORIDE TYPE

Approval No. 162.004/77/0, Randolph (Symbol PY) 1-qt. carbon-tetrachloride type hand portable fire extinguisher, assembly dwg. No. B–15791 dated June 17, 1949, name plate dwg. No. A–16163, Rev. 5 dated August 20, 1952 (Coast Guard Classification: Type B, Size I, and Type C, Size I) manufactured for Randolph Laboratories, Inc., 8 East Kinzie Street, Chicago 11, Ill., by Pyrene Manufacturing Co., 560 Belmont Avenue, Newark 8, N. J.

Approval No. 162.004/78/0, Vangarde 1-qt. carbon-tetrachloride type hand portable fire extinguisher, assembly dwg. No. B–7992, Rev. 13 dated October 27, 1947, name plate dwg. No. A–9077, Rev. 9 dated March 4, 1953 (Coast Guard Classification: Type B, Size I; and Type C, Size I), manufactured by Pyrene Manufacturing Co., 560 Belmont Avenue, Newark 8, N. J.

Approval No. 162.004/80/0, Alfco VL–1 (Symbol GEC) 1-qt. carbon-tetrachloride type hand portable fire extinguisher, assembly dwg. No. BT–185–XK, Rev. C dated December 8, 1952, name plate dwg. No. BT–185–A12 dated May 1, 1953 (Coast Guard Classification: Type B, Size I; and Type C, Size I) manufactured for American-LaFrance-Foamite Corp., Elmira, N. Y., by the General Detroit Corp., Detroit 32, Mich.

Approval No. 162.004/81/0, Alfco VL–1½ (Symbol GEC), 1½-qt. carbon-tetrachloride type hand portable fire extinguisher, assembly dwg. No. BT–195–XK, Rev. D dated December 8, 1952, name plate dwg. No. BT–195–A12 dated May 1, 1953 (Coast Guard Classification: Type B, Size I; and Type C, Size I) manufactured for American-LaFrance-Foamite Corp., Elmira, N. Y., by the General Detroit Corp., Detroit 32, Mich.

(R. S. 4405, 4417a, 4426, 4479, 4491, 4492, 49 Stat. 1544, 54 Stat. 165, 166, 346, 1023, and sec. 5, 55 Stat. 244, 245, as amended; 46 U. S. C. 367, 375, 391a, 404, 463a, 472, 489, 490, 526g, 526p, 1333, 50 U. S. C. 1275, 46 CFR 25.30, 34.25–1, 76.50, 95.50)

FIRE EXTINGUISHERS, PORTABLE, HAND, CHEMICAL FOAM TYPE

Approval No. 162.006/30/0, Stempel Kontrol Foam Type 2½-gal. hand portable fire extinguisher, assembly dwg. extinguisher No. 828 dated December 5, 1951, name plate dwgs. Sheets Nos. 7 and 8 dated December 5, 1951 (Coast Guard Classification: Type A, Size II; and Type B, Size II) manufactured by Stempel Fire Extinguisher Manufacturing Co., 2400 North Jasper Street, Philadelphia 25, Pa.

(R. S. 4405, 4417a, 4426, 4479, 4491, 4492, 49 Stat. 1544, 54 Stat. 165, 166, 346, 1023, and sec. 5, 55 Stat. 244, 245, as amended; 46 U. S. C. 367, 375, 404, 463a, 472, 489, 490, 526g, 526p, 1333, 50 U. S. C. App. 1275; 46 CFR 25.30, 34.25–1, 76.50, 95.50)

FIRE EXTINGUISHERS, PORTABLE, HAND, SODA-ACID TYPE

Approval No. 162.007/41/0, Kontrol Soda-Acid Type 2½-gal. hand portable fire extinguisher, assembly dwg. Extinguisher No. 124 dated December 19, 1951, name plate Part No. 23 dwg. Sheet No. 7, dated December 19, 1951, and instruction plate Part No. 24 dwg. Sheet No. 8, dated Dec. 19, 1951 (Coast Guard Classification Type A, Size II) manufactured by Stempel Fire Extinguisher Manufacturing Co., 2400 North Jasper Street, Philadelphia 25, Pa.

(R. S. 4405, 4417a, 4426, 4479, 4491, 4492, 49 Stat. 1544, 54 Stat. 165, 166, 346, 1023, and sec. 5, 55 Stat. 244, 245, as amended; 46 U. S. C. 367, 375, 391a, 404, 463a, 472, 489, 490, 526g, 526p, 1333, 50 U. S. C. App. 1275; 46 CFR 25.30, 34.25–1, 76.50, 95.50)

VALVES, PRESSURE VACUUM RELIEF AND SPILL

Approval No. 162.017/47/1, Figure No. 37 duplex pressure vacuum relief valve, enclosed pattern, without unloader, weight-loaded poppets, all bronze construction, dwg. No. C–495–D, revision D dated April 16, 1953, approved for 4" tank connection and 6" victaulic vent header connection (4" x 6") manufactured by The Vapor Recovery Systems Co., 2820 North Alameda Street, Compton, Calif. (Reinstates and supersedes Approval No. 162.017/47/0 terminated in the FEDERAL REGISTER dated May 7, 1952.)

Approval No. 162.017/48/1, Figure No. 37A duplex pressure vacuum relief valve, enclosed pattern fitted with vacuum valve unloader, weight-loaded poppets, all bronze construction, dwg. No. C–495–D, revision D dated April 16, 1953, approved for 4" tank connection and 6" victaulic vent header connection (4" x 6"), manufactured by The Vapor Recovery Systems Co., 2820 North Alameda Street, Compton, Calif. (Reinstates and supersedes Approval No. 162.017/48/0 terminated in the FEDERAL REGISTER dated May 7, 1952.)

Approval No. 162.017/49/1, Figure No. 37B duplex pressure vacuum relief valve, enclosed pattern, fitted with pressure valve unloader, weight-loaded poppets, all bronze construction, dwg. No. C–495–D, revision D dated April 16, 1953, approved for 4" tank connection and 6" victaulic vent header connection (4" x 6") manufactured by The Vapor Recovery Systems Co., 2820 North Alameda Street, Compton, Calif. (Reinstates and supersedes Approval No. 162.017/49/0 terminated in the FEDERAL REGISTER dated May 7, 1952.)

Approval No. 162.017/50/1, Figure No. 73 pressure only relief and spill valve, atmospheric pattern, flanged connection, weight-loaded poppet, all bronze construction, dwg. No. C–503–C, revision C dated October 2, 1952, approved for 3" and 6" pipe sizes, manufactured by The Vapor Recovery Systems Co., 2820 North Alameda Street, Compton, Calif. (Reinstates and supersedes Approval No. 162.017/50/0 terminated in the FEDERAL REGISTER dated May 7, 1952.)

Approval No. 162.017/51/1, Figure No. 73A, pressure only relief and spill valve, atmospheric pattern, screwed connection, weight-loaded poppet, all bronze construction, dwg. No. C–503–C, revision C dated October 2, 1952, approved for 3" and 6" pipe sizes, manufactured by The Vapor Recovery Systems Co., 2820 North Alameda Street, Compton, Calif. (Reinstates and supersedes Approval No. 162.017/51/0 terminated in the FEDERAL REGISTER dated May 7, 1952.)

Approval No. 162.017/64/1, Figure 100 pressure vacuum relief valve, atmospheric pattern, weight-loaded poppets, all bronze construction, dwg. No. 100–A dated January 12, 1951, approved for sizes 2½" 3" 4" 6" and 8" manufactured by the Mechanical Marine Co., Inc., 17 Battery Place, New York 4, N. Y. (Supersedes Approval No. 162.017/64/0 published in the FEDERAL REGISTER dated October 11, 1952.)

Approval No. 162.017/66/2, Figure 120 pressure only relief and spill valve, atmospheric pattern, weight-loaded poppets, all bronze construction, dwg. No. 120–A, dated January 12, 1951, approved for sizes 3" 4" 6" and 8" manufactured by the Mechanical Marine Co., Inc., 17 Battery Place, New York 4, N. Y. (Supersedes Approval No. 162.017/66/1 published in the FEDERAL REGISTER dated March 18, 1953.)

Approval No. 162.017/71/0, Figure No. 732, pressure vacuum relief valve, atmospheric pattern, screwed connection, weight-loaded poppets, all bronze construction, dwg. No. C–1809, dated April 2, 1952, approved for 2½" 3" and 4" pipe sizes, manufactured by the Vapor Recovery Systems Co., 2820 North Alameda Street, Compton, Calif.

Approval No. 162.017/72/0, Figure No. 734, pressure vacuum relief valve, enclosed pattern, without unloader, weight-loaded poppets, all bronze construction, dwg. No. C–1806–A, revision A dated May 13, 1952, approved for 4" pipe size, manufactured by the Vapor Recovery Systems Co., 2820 North Alameda Street, Compton, Calif.

Approval No. 162.017/73/0, Figure No. 734A, pressure vacuum relief valve, enclosed pattern, fitted with vacuum valve unloader, weight-loaded poppets, all bronze construction, dwg. No. C–1807–A, revision A dated May 13, 1952, approved for 4" pipe size, manufactured by the Vapor Recovery Systems Co., 2820 North Alameda Street, Compton, Calif.

Approval No. 162.017/74/0, Figure No. 734B, pressure-vacuum relief valve, enclosed pattern, fitted with pressure valve unloader, weight-loaded poppets, all bronze construction, dwg. No. C–1808–A, revision A dated May 13, 1952, approved for 4" pipe size, manufactured by the Vapor Recovery Systems Co., 2820 North Alameda Street, Compton, Calif.

Approval No. 162.017/75/0, Figure No. 735, pressure vacuum relief valve, atmospheric pattern, flanged connection, weight-loaded poppets, all bronze construction, dwg. No. C–1810 dated April 3, 1952, approved for 2½" and 4" pipe sizes, manufactured by the Vapor Recovery Systems Co., 2820 North Alameda Street, Compton, Calif.

Approval No. 162.017/76/0, Figure No. 735A, pressure vacuum relief valve, atmospheric pattern, screwed connection, weight-loaded poppets, all bronze construction, dwg. No. C–1810 dated April 3, 1952, approved for 2½" and 4" pipe sizes, manufactured by the Vapor Recovery Systems Co., 2820 North Alameda Street, Compton, Calif.

(R. S. 4405, 4417a, 4491, and sec. 5 (e), 55 Stat. 244, 245, as amended; 46 U. S. C. 375, 391a, 489, 50 U. S. C. App. 1275; 46 CFR 162.017)

VALVES, SAFETY RELIEF LIQUEFIED COMPRESSED GAS

Approval No. 162.018/16/1, Type 2680 pop safety relief valve, liquefied petroleum gas service, full nozzle type metal-to-metal seat, 300 p. s. i. maximum allowable pressure, dwg. No. 1394–B–CG, revision A dated June 1, 1953, approved for the following sizes and capacity ratings (discharge in cubic feet per minute measured at 60° F and 14.7 p. s. i. a. and flow-rated at 110 percent of the set pressures)

Inlet size	Orifice designation	Set pressures, p. s. i. g.			
		100	150	200	250
1	D	187	278	386	509
1	E	334	495	686	906
1, 1½	F	523	777	1,075	1,420
1½, 2	H	1,335	1,990	2,760	3,630
2, 2½	J	2,190	3,250	4,510	5,940
2½, 3	K	3,120	4,650	6,450	8,480
3, 4	L	4,850	7,210	10,000	13,150
4	N	7,380	11,000	15,200	20,000
4	P	10,850	16,150	22,400	29,500
6	Q	18,800	27,900	38,700	51,000
6	S	27,200	40,500	56,100	73,800

manufactured by Farris Engineering Corp., Palisades Park, N. J. (Reinstates and supersedes Approval No. 162.018/16/0 terminated in the FEDERAL REGISTER dated May 7, 1952.)

(R. S. 4405, 4417a, 4491, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 375, 391a, 489, 50 U. S. C. 1275; 46 CFR Part 38)

STRUCTURAL INSULATION

Approval No. 164.007/21/0, "Fiberglas Marine Insulation PF 625," glass wool type structural insulation identical to that described in National Bureau of Standards Test Report No. TG3610–1512: FP2612 dated April 12, 1948, bats and blankets approved for use without other insulating material to meet Class A–60 requirements in a 4-inch thickness and 6 pounds per cubic foot density, manufactured by Owens-Corning Fiberglas Corporation, Toledo 1, Ohio. (Extension of the approval published in FEDERAL REGISTER dated May 15, 1948; effective May 15, 1953.)

(R. S. 4405, 4417a, 4426, 49 Stat. 1384, 1544, 54 Stat. 346, 1028, and sec. 5 (e), 55 Stat. 244, 245, as amended; 46 U. S. C. 367, 369, 375, 391a, 404, 463a, 1333, 50 U. S. C. App. 1275; 46 CFR 72.05, 92.05)

CHANGE IN ADDRESS OF MANUFACTURER

The address of Merit Manufacturing Corp. has been changed from 225–227 Powell Street, Brooklyn, N. Y., to 92–15 172d Street, Jamaica, Long Island, N. Y., for Approval Nos. 160.002/17/0, 160.002/18/0, A–260, A–261, A–263, and 160.007/49/0, previously published in the FEDERAL REGISTER for life preservers and buoyant cushions.

Dated: August 3, 1953.

[SEAL] MERLIN O'NEILL,
Vice Admiral, U. S. Coast Guard, Commandant.

[F. R. Doc. 53-6926; Filed, Aug. 6, 1953; 8:52 a. m.]

[CGFR 53-33]

TERMINATIONS OF APPROVALS OF EQUIPMENT

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order No. 120, dated July 31, 1950 (15 F R. 6521), and in compliance with the authorities cited below, the following approvals of equipment are terminated because (1) the manufacturer is no longer in business; or (2) the manufacturer does not desire to retain the approval; or (3) the item is no longer being manufactured; or (4) the item of equipment no longer complies with present Coast Guard requirements; or (5) the approval has expired. In the case of power boilers (162.002/77/1), it has been decided that since detailed plans of power boilers must be submitted for each vessel or a group of vessels of a particular design, there is no advantage in type approving such boilers and, therefore, the approvals for power boilers are being terminated and new designs will no longer be listed under the heading of approved equipment. Except for those approvals which have expired, all other terminations of approvals made by this document shall be made effective upon the thirty-first day after the date of publication of this document in the FEDERAL REGISTER. Notwithstanding this termination of approval of any item of equipment as listed in this document, such equipment in service may be continued in use so long as such equipment is in good and serviceable condition.

LIFE PRESERVERS, KAPOK, ADULT AND CHILD (JACKET TYPE)

Termination of Approval No. 160.002/35/0, Model 2, adult kapok life preserver,

U. S. C. G. Specification Subpart 160.002, manufactured by Burlington Mills, Inc., Burlington, Wis. (Approved FEDERAL REGISTER May 15, 1948. Termination of approval effective May 15, 1953.)

(R. S. 4405, 4417a, 4426, 4488, 4491, 4492, sec. 11, 35 Stat. 428, 49 Stat. 1544, 54 Stat. 164, 166, 346, and sec. 5, 55 Stat. 244, 245, as amended; 46 U. S. C. 367, 375, 391a, 396, 404, 481, 489, 490, 526e, 526p, 1333, 50 U. S. C. App. 1275; 46 CFR 160.002)

CLEANING PROCESS FOR LIFE PRESERVERS

Termination of Approval No. 160.006/14/0, Magaril cleaning process for cork and balsa wood life preservers with permanently installed buoyant inserts, as outlined in Coast Guard inspector's test report, dated June 9, 1948, describing cleaning process submitted by Magaril, Inc., Bordentown, N. J. (Approved FEDERAL REGISTER July 1, 1948. Termination of approval effective July 1, 1953.)

(R. S. 4405, 4417a, 4426, 4482, 4488, 4491, sec. 11, 35 Stat. 428, 49 Stat. 1544, 54 Stat. 164, 166, 346, and sec. 5, 55 Stat. 244, 245, as amended; 46 U. S. C. 367, 375, 391, 396, 404, 475, 481, 489, 526e, 526p, 1333, 50 U. S. C. App. 1275; 46 CFR 160.006)

BUOYANT CUSHIONS, KAPOK, STANDARD

Termination of Approval No. 160.007/67/0, standard kapok buoyant cushion, U. S. C. G. Specification Subpart 160.007, manufactured by the Murray & Spavin Co., 422 Northeast Sixth Avenue, Fort Lauderdale, Fla. (Approved FEDERAL REGISTER May 15, 1948. Termination of approval effective May 15, 1953.)

Termination of Approval No. 160.007/68/0, standard kapok buoyant cushion, U. S. C. G. Specification Subpart 160.007, manufactured by Gilbert Auto Trim Company, 6420 East Vernor Highway, Detroit, Mich. (Approved FEDERAL REGISTER May 15, 1948. Termination of approval effective May 15, 1953.)

Termination of Approval No. 160.007/70/0, standard kapok buoyant cushion, U. S. C. G. Specification Subpart 160.007, manufactured by the Reed Furniture Manufacturing Co., 8206 East Admiral Place, Tulsa, Okla. (Approved FEDERAL REGISTER July 1, 1948. Termination of approval effective July 1, 1953.)

(R. S. 4405, 4491, 54 Stat. 164, 166, as amended; 46 U. S. C. 375, 489, 526e, 526p; 46 CFR 160.007)

DAVITS, LIFEBOAT

Termination of Approval No. 160.032/101/0, mechanical davit, boom sheath screw Type B–25, approved for maximum working load of 5,000 pounds per set (2,500 pounds per arm) using 5 part falls, identified by arrangement dwg. No. 3211 dated March 13, 1948, submitted by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J. (Approved FEDERAL REGISTER June 9, 1948. Termination of approval effective June 9, 1953.)

Termination of Approval No. 160.032/102/0, mechanical davit, crescent sheath screw Type C–65, approved for maximum working load of 13,000 pounds per set (6,500 pounds per arm) using 2 part falls, identified by general arrangement dwg. No. 2082–10 dated September 22, 1947, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J. (Approved FEDERAL REGISTER June 9, 1948. Termination of approval effective June 9, 1953.)

(R. S. 4405, 4417a, 4426, 4481, 4483, 4491, 49 Stat. 1544, 54 Stat. 346, and sec. 5, 55 Stat. 244, 245, as amended; 46 U. S. C. 367, 375, 391a, 404, 474, 481, 489, 1333, 50 U. S. C. 1275; 46 CFR 160.032)

LIFEBOATS

Termination of Approval No. 160.035/137/1, 16.0′ x 5.5′ x 2.38′ steel, oar-propelled lifeboat, 12-person capacity, identified by general arrangement dwg. No. 557–A dated March 10, 1944, and revised April 24, 1948, submitted by Boatcraft Co., Inc., corner of Cropsey and Twenty-sixth Avenues, Brooklyn 14, N. Y. (Approved FEDERAL REGISTER July 1, 1948. Termination of approval effective July 1, 1953.)

Termination of Approval No. 160.035/159/0, 12′ x 4.4′ x 1.9′ steel, oar-propelled lifeboat, 6-person capacity, identified by general arrangement and construction dwg. No. 1215 dated May 3, 1946, and revised April 27, 1947, manufactured by Lane Lifeboat & Davit Corp., 8920 Twenty-sixth Avenue, Brooklyn 14, N. Y. (Approved FEDERAL REGISTER June 9, 1948. Termination of approval effective June 9, 1953.)

Termination of Approval No. 160.035/160/1, 16.0′ x 5.0′ x 2.1′ steel, oar-propelled lifeboat, 10-person capacity, identified by construction and arrangement dwg. No. 1613 dated November 27, 1946, manufactured by Lane Lifeboat & Davit Corp., 8920 Twenty-sixth Avenue, Brooklyn 14, N. Y. (Approved FEDERAL REGISTER June 9, 1948. Termination of approval effective June 9, 1953.)

Termination of Approval No. 160.035/187/0, 26.0′ x 9.0′ x 3.83′ steel, oar-propelled lifeboat, 53-person capacity, identified by construction and arrangement dwg. No. 3201, dated November 13, 1944, and revised March 23, 1948, submitted by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J. (Approved FEDERAL REGISTER May 15, 1948. Termination of approval effective May 15, 1953.)

Termination of Approval No. 160.035/195/0, 35.0′ x 12.33′ x 5.25′ steel, motor-propelled lifeboat with radio cabin, 130-person capacity, identified by construction and arrangement dwg. No. 3195 dated November 18, 1947, submitted by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J. (Approved FEDERAL REGISTER June 9, 1948. Termination of approval effective June 9, 1953.)

Termination of Approval No. 160.035/198/0, 14.0′ x 5.2′ x 2.3′ steel, oar-propelled lifeboat, 10-person capacity, identified by general arrangement dwg. No. 1403, dated June 14, 1946, submitted by Boatcraft Company, Inc., corner of Cropsey and Twenty-sixth Avenues, Brooklyn 14, N.Y. (Approved FEDERAL REGISTER July 1, 1948. Termination of approval effective July 1, 1953.)

(R. S. 4405, 4417a, 4426, 4481, 4483, 4491, 4492, sec. 11, 35 Stat. 428, 49 Stat. 1544, 54 Stat. 346, and sec. 5, 55 Stat. 244, 245, as amended; 46 U. S. C. 367, 375, 391a, 396, 404, 474, 481, 489, 490, 1333, 50 U. S. C. App. 1275; 46 CFR 160.035)

BOILERS, POWER

Termination of Approval No. 162.-002/77/1, Foster Wheeler Auxiliary Water Tube Boiler, 2 drum bent tube Type "D", automatic control package unit; boiler arrangement dwg. No. NY–500–56, Rev. "B", and Todd Shipyards Corp., Combustion Equipment Division, burning unit Model "P" size "G–25" dwg. No. 50507–2, manufactured by Foster Wheeler Corp., 165 Broadway, New York 6, N. Y. (Approved FEDERAL REGISTER May 10, 1950.)

(R. S. 4405, 4417a, 4418, 4433, 4434, 4491, 49 Stat. 1544, 54 Stat. 346, and sec. 5, 55 Stat. 244, 245, as amended; 46 U. S. C. 367, 375, 391a, 392, 411, 412, 489, 1333, 50 U. S. C. App. 1275; 46 CFR Part 52)

STRUCTURAL INSULATION

Termination of Approval No. 164.007/27/0, FELTROK Shipfelt, mineral wool type structural insulation identical to that described in National Bureau of Standards Test Report No. TG10210–1686: FP 2905 (Test Folder No. 123814), dated March 24, 1950, and National Bureau of Standards letter dated April 5, 1950, file 10.2/123814, bats or blankets approved for use without other insulating material to meet Class A-60 requirements in a 4-inch thickness and 6 pounds per cubic foot density, and a 3-inch thickness and 8 pounds per cubic foot density, manufactured by Feltrok Insulation Manufacturing Co., 2301 Taylor Way, Tacoma 2, Wash. (Approval published in FEDERAL REGISTER May 10, 1950.)

(R. S. 4405, 4417a, 4426, 49 Stat. 1384, 1544, 54 Stat. 346, 1023, and sec. 5 (e), 55 Stat. 244, 245, as amended; 46 U. S. C. 367, 369, 375, 391a, 404, 463a, 1333, 50 U. S. C. App. 1275; 46 CFR 72.05, 92.05)

Dated: July 31, 1953.

[SEAL] MERLIN O'NEILL,
Vice Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 53-6927; Filed, Aug. 6, 1953; 8:52 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

[Dissolution Order 102]

HYALSOL EXPORT CORP.

Whereas, under the authority of the Trading With the Enemy Act, as amended (50 U. S. C. App. 1 et seq.), and Executive Order 9193 (3 CFR 1943 Cum. Supp.), 2,000 shares of no par value common stock of Hyalsol Export Corporation, a Delaware corporation (hereinafter, "corporation"), being all of the issued and outstanding stock of said corporation, were vested in the Alien Property Custodian by Vesting Order 5930 (11 F. R. 2137, March 1, 1946), and

Whereas, by Executive Order 9788 (3 CFR 1946 Supp.), all authority, rights, privileges, powers, duties, functions and property vested in the Alien Property Custodian were vested in or transferred

or delegated to the Attorney General of the United States.

Now, therefore, under the authority aforesaid, after investigation,

I. It having been determined that it is in the national interest of the United States that the corporation be dissolved and that its assets be distributed, and a Certificate of Dissolution having been issued by the Secretary of State of the State of Delaware on December 4, 1952, certifying to the dissolution of the corporation, which certificate was thereafter published in accordance with Section 39 of the General Corporation Law of the State of Delaware, and an affidavit of such publication having been filed with the office of said Secretary of State as of December 15, 1952;

II. It is hereby found that there are no known debts of the corporation and that the known assets of the corporation are:

(a) Cash in the sum of $12,359.80, as of February 28, 1953, and

(b) A claim in the amount of $600.00 against the estate of J. K. Destenfield, deceased,

It is hereby ordered, That the officers and directors of the corporation (to wit: Walter C. Gorsuch, President and Director; C. Gordon Lamude, Vice-President and Director; and Lewis M. Reed, Secretary, Treasurer and Director, and their successors, or any of them) continue the proceedings for the dissolution and liquidation of the corporation. *And it is hereby further ordered,* That the said officers and directors wind up the affairs of the corporation and distribute the assets thereof coming into their possession as follows:

1. They shall first pay the current expenses and necessary charges in effecting the dissolution of the corporation and the winding up of its affairs,

2. They shall then pay all Federal, State and local taxes and fees owed by or accruing against the corporation, if any and

3. They shall then pay over, transfer, assign and deliver to the Attorney General of the United States all of the funds and property, referred to in subparagraphs II (a) and (b) of this order, including after discovered assets, remaining in their hands after the payments as provided in subparagraphs 1 and 2 hereof, the same to be applied, first, in satisfaction of such claims, if any, as he may have for moneys advanced or services rendered to or on behalf of the corporation and, second, as a liquidating distribution of assets to the Attorney General of the United States as a holder of all the issued and outstanding stock of the corporation, and

It is hereby further ordered, That nothing herein set forth shall be construed as prejudicing the rights, under the Trading With the Enemy Act as amended, of any person who may have a claim against the corporation to file such claim with the Attorney General of the United States hereunder; *Provided, however* That nothing herein contained shall be construed as creating additional rights in such person: *Provided, further,* That any such claim against the corporation shall be filed with or presented to the Attorney General of the United States within the time and in the form and manner prescribed for such claims by the Trading With the Enemy Act, as amended, and applicable regulations and orders issued pursuant thereto; and

It is hereby further ordered, That all actions taken and acts done by the said officers and directors of the corporation, pursuant to this order and the directions contained herein shall be deemed to have been taken and done in reliance on and pursuant to section 5 (b) (2) of the Trading With the Enemy Act, as amended (50 U. S. C. App. 5) and the acquittance and exculpation provided therein.

Executed at Washington, D. C., on July 31, 1953.

For the Attorney General.

[SEAL] JULIUS SCHLEZINGER,
Acting Deputy Director
Office of Alien Property.

[F. R. Doc. 53-6943; Filed, Aug. 6, 1953; 8:55 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. ID-401; ID-771; ID-794; ID-897; ID-959; ID-1148; ID-1181]

HARRY HANSON ET AL.

NOTICE OF ORDERS AUTHORIZING APPLICANTS TO HOLD CERTAIN POSITIONS

AUGUST 3, 1953.

In the matters of Harry Hanson, Docket No. ID-401, Ralph D. Washburn, Docket No. ID-771, Isaac S. Hall, Docket No. ID-794, Newell A. Clark, Docket No. ID-897; Rockwell C. Tenney, Docket No. ID-959; Harold L. Dalbeck, Docket No. ID-1148; Orlando B. Swift, Docket No. ID-1181.

Notice is hereby given that on July 29, 1953, the Federal Power Commission issued its orders adopted July 23, 1953, authorizing applicants to hold certain positions pursuant to section 305 (b) of the Federal Power Act in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-6899; Filed, Aug. 6, 1953; 8:47 a. m.]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

NEW MEXICO

NOTICE FOR FILING OBJECTIONS TO ORDER RESERVING LANDS WITHIN LINCOLN NATIONAL FOREST FOR USE OF FOREST SERVICE [1]

For a period of 30 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

ORME LEWIS,
Assistant Secretary of the Interior

JULY 31, 1953.

[F. R. Doc. 53-6897; Filed, Aug. 6, 1953; 8:47 a. m.]

[1] See Title 43, Chapter I, Appendix, PLO 908, *supra.*

MONTANA AND SOUTH DAKOTA

NOTICE FOR FILING OBJECTIONS TO ORDER RESERVING LANDS WITHIN NATIONAL FOREST AS ADMINISTRATIVE SITES AND A RECREATION AREA [1]

For a period of 30 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

ORME LEWIS,
Assistant Secretary of the Interior

JULY 31, 1953.

[F R. Doc. 53-6895; Filed, Aug. 6, 1953; 8:46 a. m.]

[1] See Title 43, Chapter I, Appendix, PLO 909, *supra.*

[Order 2558, Amdt. 3]

ADMINISTRATOR, SOUTHEASTERN POWER ADMINISTRATION

DELEGATION OF AUTHORITY WITH RESPECT TO CLARK HILL-GREENWOOD LINE

Order No. 2558, as amended, is further amended by adding a new section 1a, reading as follows:

1a. *Clark Hill-Greenwood Line.* There is hereby delegated to the Administrator of the Southeastern Power Administration the authority of the Secretary of the Interior to negotiate a disposition and dispose of all real and personal property comprising the Clark Hill-Greenwood transmission line and related facilities to the Greenwood County Electric

Power Commission as contained in the Interior Department Appropriation Act, 1954 (Pub. Law 172, 83d Cong.).

(Sec. 2, Reorg. Plan No. 3 of 1950, 15 F. R. 3174)

FRED G. AANDAHL,
Acting Secretary of the Interior.

AUGUST 3, 1953.

[F. R. Doc. 53-6893; Filed, Aug. 6, 1953; 8:46 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 10512, 10513, 10514]

SCRIPPS-HOWARD RADIO, INC., ET AL.

ORDER CONTINUING HEARING

In re applications of Scripps-Howard Radio, Inc., Knoxville, Tennessee, Docket No. 10512, File No. BPCT-630; Radio Station WBIR, Inc., Knoxville, Tennessee, Docket No. 10513, File No. BPCT-686; Tennessee Television, Inc., Knoxville, Tennessee, Docket No. 10514, File No. BPCT-1002; for television construction permits.

Pursuant to agreement of counsel, and in order to accommodate the Examiner's schedule in the Evansville case (Docket No. 10461, etc.) the date for the initial taking of testimony herein, now set for August 24, 1953, is continued to September 14, 1953.

Dated: July 27, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6888; Filed, Aug. 6, 1953; 8:45 a. m.]

[Docket Nos. 10552, 10553, 10607]

MUSIC BROADCASTING CO. ET AL.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Music Broadcasting Company, Grand Rapids, Michigan, Docket No. 10552, File No. BPCT-1275; W S. Butterfield Theatres, Inc., Grand Rapids, Michigan, Docket No. 10553, File No. BPCT-1502; Peninsular Broadcasting Company, Grand Rapids, Michigan, Docket No. 10607, File No. BPCT-1730; for construction permits for new television stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 29th day of July 1953;

The Commission having under consideration the above-entitled applications, each requesting a construction permit for a new television broadcast station to operate on Channel 23 in Grand Rapids, Michigan; and

It appearing, that the above-entitled applications are mutually exclusive in that operation by more than one applicant would result in mutually destructive interference; and

It further appearing, that on June 17, 1953, the Commission adopted an order (FCC 53-745) designating the above-entitled applications of Music Broadcasting Company and W. S. Butterfield Theatres, Inc., for hearing in a consolidated proceeding upon specified issues at a time and place to be designated by further order of the Commission; and

It further appearing, that on June 26, 1953, the above-entitled application of Peninsular Broadcasting Company was filed; and that, pursuant to section 309 (b) of the Communications Act of 1934, as amended, Peninsular Broadcasting Company was advised by a letter dated July 3, 1953, that its application was mutually exclusive with the other two above-entitled applications, that a hearing would be necessary, and that the question of whether its proposed antenna system and site would constitute a hazard to air navigation was unresolved; and

It further appearing, that upon due consideration of the above-entitled application of Peninsular Broadcasting Company, the amendment thereto, and the reply to the above letter filed by Peninsular Broadcasting Company, the Commission finds that, under section 309 (b) of the Communications Act of 1934, as amended, the above-entitled application of Peninsular Broadcasting Company must be designated for hearing in the same consolidated proceeding as the other two above-entitled applications; and that Peninsular Broadcasting Company is legally and financially qualified to construct, own and operate a television broadcast station, and is technically so qualified except as to the matter referred to in issue "1" below;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-entitled applications are designated for hearing in a consolidated proceeding to commence at 10:00 a. m., on August 28, 1953, in Washington, D. C., upon the following issues:

1. To determine whether the installation of either of the stations proposed by W. S. Butterfield Theatres, Inc., and Peninsular Broadcasting Company in their above-entitled applications would constitute a hazard to air navigation.

2. To determine on a comparative basis which of the operations proposed in the above-entitled applications would best serve the public interest, convenience and necessity in the light of the record made with respect to the significant differences among the applications as to:

(a) The background and experience of each of the above-named applicants having a bearing on its ability to own and operate the proposed television station.

(b) The proposals of each of the above-named applicants with respect to the management and operation of the proposed station.

(c) The programming service proposed in each of the above-entitled applications.

Released: August 3, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6931; Filed, Aug. 6, 1953; 8:53 a. m.]

[Docket No. 10602]

NATIONAL PLASTIK-WARE FASHIONS

ORDER DESIGNATING MATTER FOR HEARING

In the matter of cease and desist order to be directed to National Plastik-ware Fashions, 700 Broadway, New York, N. Y., Docket No. 10602.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 29th day of July 1953;

The Commission having under consideration the issuance of an order pursuant to section 312 (b) of the Communications Act of 1934, as amended, to National Plastik-ware Fashions to cease and desist from violating Part 18 of the Commission's rules by operating electronic heating equipment which (1) is the source of interference to authorized radio services, and (2) is not certified or licensed in accordance with the Commission's rules.

It appearing, that National Plastik-ware Fashions operates in its plant at 700 Broadway, New York, N. Y., certain indstrial heating equipment operating on approximately 30 Mc which is subject to the requirements of §§ 18.22, 18.24 and 18.41 of the Commission's rules; and

It further appearing, that the aforementioned equipment causes interference to an authorized radio communication system operated by the United States Army in the vicinity of New York, N. Y., and

It further appearing, that the aforementioned equipment has not been certified by a duly qualified engineer or the manufacturer of the equipment as required by § 18.22 of the Commission's rules, nor has the equipment been licensed pursuant to § 18.41 of the Commission's rules; and

It further appearing, that the above facts have been called to the attention of the National Plastik-ware Fashions by the Commission both orally and in writing, and that the company has been accorded an opportunity to demonstrate or achieve compliance with all lawful requirements but such demonstration has not been made and such compliance has not been accomplished;

It is ordered, Pursuant to section 312 (c) of the Communications Act of 1934, as amended, that the National Plastik-ware Fashions be and is hereby directed to show cause why there should not be issued an order commanding it to cease and desist from violating the provisions of Part 18 of the Commission's rules by operating industrial heating equipment without the certification or license required by Part 18 of the Commission's rules, and by operating such equipment in a manner which causes interference to authorized radio services; and

It is further ordered, That a hearing in this matter be held in the Commission's offices, Twelfth and Pennsylvania Avenue NW., Washington 25, D. C. on the 15th day of September 1953, in order to determine whether said cease and desist order should be issued, and that National Plastik-ware Fashions is herewith called upon to appear at this hearing and give evidence upon the matters specified herein; and

It is further ordered, Pursuant to § 1.402 of the rules, that said National Plastik-ware Fashions is directed to file with the Commission within thirty days of the receipt of this order a written appearance in triplicate, stating that the company will appear and present evidence on the matter specified in this order if the company desires to avail itself of its opportunity to appear before the Commission. If said National Plastik-ware Fashions does not desire to appear before the Commission and give evidence on the matter specified herein, it shall, within thirty days of the receipt of this order, file with the Commission, in triplicate, a written waiver of hearing. Such waiver may be accompanied by a statement of reasons why National Plastik-ware Fashions believes that a cease and desist order should not be issued, and

It is further ordered, That failure of said National Plastik-ware Fashions timely to respond to this order or failure to appear at the hearing designated herein will be deemed a waiver of hearing.

Released: August 3, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6932; Filed, Aug. 6, 1953; 8:53 a. m.]

[Docket No. 10605]

BOGALUSA BROADCASTING CO.

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Charles W Holt & Dave A. Matison, Jr., d/b as Bogalusa Broadcasting Company Bogalusa, Louisiana, Docket No. 10605, File No. BP-8776; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 29th day of July 1953;

The Commission having under consideration a protest filed pursuant to section 309 (c) of the Communications Act of 1934, as amended, on July 17, 1953, by Times-Picayune Publishing Company, licensee of Station WTPS, New Orleans, Louisiana, (940 kc, 500 w, 1 kw-LS, DA-N, U) requesting that the Commission reconsider its action of June 17, 1953, granting the above-entitled application of Bogalusa Broadcasting Company for a construction permit for a new standard broadcast station to operate on 920 kc, 1 kw, daytime only at Bogalusa, Louisiana, and to designate the application for hearing;

It appearing, that the engineering affidavit, together with supporting field intensity measurements attached to the WTPS petition indicates that the 15 mv/m contour of the Bogalusa station operating as proposed will overlap with the 0.5 mv/m contour of Station WTPS, that the Commission's further study of the matter, including an analysis of the field intensity measurements submitted by the petitioner, indicates that operating as proposed, the Bogalusa station would cause some interference within the WTPS normally protected 0.5 mv/m contour as defined by the Standards of Good Engineering Practice Concerning Standard Broadcast Stations; and

It further appearing, that the Commission is of the opinion that the aforesaid protest meets the requirements of section 309 (c) and that a hearing must be held on the Bogalusa application upon the matters put in issue by said protest and others which, in the opinion of the Commission, are appropriate.

It is ordered, That the above-described petition of Times-Picayune Publishing Company is granted:

It is further ordered, That pursuant to section 309 (c) of the Communications Act of 1934, as amended, the above-entitled application of Bogalusa Broadcasting Company for construction permit for a new standard broadcast station at Bogalusa, Louisiana, is designated for hearing at a time and place to be designated in a subsequent order upon the following issues:

1. To determine the nature and extent of the interference that will be caused to Station WTPS by the proposed operation of the Bogalusa station on 920 kilocycles with the power of one kilowatt and daytime hours of operation, the areas and populations affected thereby, the availability of other primary service to such areas and populations, and the nature and character of the program service now being rendered by Station WTPS to such areas and populations.

2. To determine the type and character of program service proposed to be rendered by the Bogalusa station and whether it would meet the requirements of the populations and areas proposed to be served.

3. To determine whether, based on the findings made pursuant to the issues above, the public interest, convenience or necessity would be served by the grant of the above-entitled application.

It is further ordered, That Times-Picayune Publishing Company, licensee of Station WTPS, New Orleans, Louisiana, is made a party to the proceeding.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof is placed upon Bogalusa Broadcasting Company.

It is further ordered, That effective immediately and pending the final determination of the above hearing, the effectiveness of the Commission's action of June 17, 1953, granting the above-entitled Bogalusa Broadcasting application is postponed.

Released: August 3, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6933; Filed, Aug. 6, 1953; 8:53 a. m.]

[Docket Nos. 10608, 10609, 10610, 10611]

ARKANSAS BROADCASTING CO. ET AL.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Arkansas Broadcasting Company, Little Rock, Arkansas, Docket No. 10608, File No. BPCT-1053; Little Rock Television Corporation, Little Rock, Arkansas, Docket No. 10609, File No. BPCT-1054, Arkansas Television Company, Little Rock, Arkansas, Docket No. 10610, File No. BPCT-1057, Arkansas Telecasters, Inc., North Little Rock, Arkansas, Docket No. 10611, File No. BPCT-1740; for construction permits for new television stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 29th day of July 1953;

The Commission having under consideration the above-entitled applications, each requesting a construction permit for a new television broadcast station to operate on Channel 11, assigned to Little Rock, Arkansas; and

It appearing, that the above-entitled applications are mutually exclusive in that operation by more than one applicant would result in mutually destructive interference; and

It further appearing, that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-named applicants were advised by letters dated August 28, 1952, June 19, 1953, and July 17, 1953, that their applications were mutually exclusive, that a hearing would be necessary, and that the questions as to whether their proposed antenna systems and sites would constitute hazards to air navigation were unresolved; that Arkansas Broadcasting Company and Little Rock Television Corporation were advised by the letters dated June 19, 1953, that certain questions were raised as a result of deficiencies of a financial and technical nature in their applications; and that Arkansas Telecasters, Inc., was advised by the letter of July 17, 1953, that certain questions were raised as a result of deficiencies of a financial nature in its application; and

It further appearing, that upon due consideration of the above-entitled applications, the amendments filed thereto, and the replies to the above letters, the Commission finds that under section 309 (b) of the Communications Act of 1934, as amended, a hearing is mandatory that Arkansas Broadcasting Company is legally qualified to construct, own and operate a television broadcast station, and is technically qualified except as to the matters referred to in issues "2", "3", and "4" below that Little Rock Television Corporation is legally and financially qualified to construct, own and operate a television broadcast station, and is technically qualified except as to the matters referred to in issues "4" and "5" below; that Arkansas Television Company is legally, financially and technically qualified to construct, own and operate a

television broadcast station; and that Arkansas Telecasters, Inc., is legally and financially qualified to construct, own and operate a television broadcast station, and is technically qualified except as to the matter referred to in issue "6" below;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-entitled applications are designated for hearing in a consolidated proceeding to commence at 10:00 a. m. on August 28, 1953, in Washington, D. C., upon the following issues:

1. To determine whether Arkansas Broadcasting Company is financially qualified to construct, own and operate the proposed television broadcast station.

2. To determine whether the type of antenna proposed to be used by Arkansas Broadcasting Company in its above-entitled application is suitable for use on Channel 11.

3. To determine the exact transmitter site proposed by Arkansas Broadcasting Company, the height above mean sea level of the antenna proposed by the said applicant, and what effect, if any, the antenna, so located, will have on the proposed operation of the said applicant and on the operation of any other existing or proposed television broadcast station.

4. To determine whether the engineering data contained in the above-entitled applications of Arkansas Broadcasting Company and Little Rock Television Corporation is in accordance with the requirements of § 3.684 of the Commission's rules.

5. To determine the precise geographic coordinates of the television antenna site proposed by Little Rock Television Corporation.

6. To determine whether the installation of the station proposed by Arkansas Telecasters, Inc., in its above-entitled application would constitute a hazard to air navigation.

7. To determine on a comparative basis which of the operations proposed in the above-entitled applications would best serve the public interest, convenience and necessity in the light of the record made with respect to the significant differences among the applications as to:

(a) The background and experience of each of the above-named applicants having a bearing on its ability to own and operate the proposed television station.

(b) The proposals of each of the above-named applicants with respect to the management and operation of the proposed station.

(c) The programming service proposed in each of the above-entitled applications.

Released: August 4, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6934; Filed, Aug. 6, 1953; 8:54 a. m.]

[Docket Nos. 10612, 10613]

GREAT LAKES TELEVISION CO., AND CIVIC TELEVISION, INC.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Great Lakes Television Company, Erie, Pennsylvania, Docket No. 10612, File No. BPCT-1286; Civic Television, Inc., Erie, Pennsylvania, Docket No. 10613, File No. BPCT-1352; for construction permits for new television stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 29th day of July 1953;

The Commission having under consideration the above-entitled applications, each requesting a construction permit for a new television broadcast station to operate on Channel 35 in Erie, Pennsylvania; and

It appearing, that the above-entitled applications are mutually exclusive in that operation by more than one applicant would result in mutually destructive interference; and

It further appearing, that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-named applicants were advised by letters dated June 23, 1953, that their applications were mutually exclusive, that a hearing would be necessary, and that the questions as to whether their proposed antenna systems and sites would constitute hazards to air navigation were unresolved; that Great Lakes Television Company was advised by the said letter that questions of a financial nature and as to whether its proposal met the requirements of the Commission's rules had been raised; and that Civic Television, Inc., was advised by the said letter that certain questions were raised as a result of deficiencies of a legal, financial and technical nature in its application; and

It further appearing, that upon due consideration of the above-entitled applications, the amendments filed thereto, and the replies to the above letters, the Commission finds that under section 309 (b) of the Communications Act of 1934, as amended, a hearing is mandatory; that Great Lakes Television Company is legally qualified to construct, own and operate a television broadcast station, and is technically so qualified except as to the matter referred to in issue "1" below; and that Civic Television, Inc., is legally and technically qualified to construct, own and operate a television broadcast station except as to the matters referred to in issues "3" and "4" below;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-entitled applications are designated for hearing in a consolidated proceeding to commence at 10:00 a. m. on August 28, 1953 in Washington, D. C., upon the following issues:

1. To determine whether the engineering data contained in the above-entitled application of Great Lakes Television Company is in accordance with the requirements of § 3.684 of the Commission's rules.

2. To determine whether the above-named applicants are financially qualified to construct, own and operate the proposed television broadcast stations.

3. To determine whether Civic Television, Inc., is authorized to construct, own and operate a television broadcast station in Erie, Pennsylvania.

4. To determine whether the type of antenna proposed to be used by Civic Television, Inc., in its above-entitled application is suitable for use on Channel 35.

5. To determine on a comparative basis which of the operations proposed in the above-entitled applications would better serve the public interest, convenience and necessity in the light of the record made with respect to the significant differences between the applications as to:

(a) The background and experience of each of the above-named applicants having a bearing on its ability to own and operate the proposed television station.

(b) The proposals of each of the above-named applicants with respect to the management and operation of the proposed station.

(c) The programming service proposed in each of the above-entitled applications.

Released: August 4, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6935; Filed, Aug. 6, 1953; 8:54 a. m.]

[Docket Nos. 10614, 10615]

ERIE TELEVISION CORP. AND COMMODORE PERRY BROADCASTING SERVICE, INC.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Erie Television Corporation, Erie, Pennsylvania, Docket No. 10614, File No. BPCT-667; Commodore Perry Broadcasting Service, Inc., Erie, Pennsylvania, Docket No. 10615, File No. BPCT-1283; for construction permits for new television stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 29th day of July 1953;

The Commission having under consideration the above-entitled applications, each requesting a construction permit for a new television broadcast station to operate on Channel 66 in Erie, Pennsylvania; and

It appearing, that the above-entitled applications are mutually exclusive in that operation by more than one applicant would result in mutually destructive interference; and

It further appearing, that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-named applicants were advised by letters dated June 22, 1953, that their applications were mutually exclusive and that a hearing would be necessary; that Erie Television Corporation was advised by the said letter that certain questions were raised as a result of deficiencies of

a technical nature in its application; and that Commodore Perry Broadcasting Service, Inc., was advised by the said letter that certain questions were raised as a result of deficiencies of a financial and technical nature in its application, and that the question of whether its proposed antenna system and site would constitute a hazard to air navigation was unresolved; and

It further appearing, that upon due consideration of the above-entitled applications, the amendments filed thereto, and the replies to the above letters, the Commission finds that under section 309 (b) of the Communications Act of 1934, as amended, a hearing is mandatory; that Erie Television Corporation is legally, financially, and technically qualified to construct, own and operate a television broadcast station; and that Commodore Perry Broadcasting Service, Inc., is legally qualified to construct, own and operate a television broadcast station, and is technically so qualified except as to the matters referred to in issues "2" and "3" below:

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-entitled applications are designated for hearing in a consolidated proceeding to commence at 10:00 a. m., on August 28, 1953, in Washington, D. C., upon the following issues:

1. To determine whether Commodore Perry Broadcasting Service, Inc., is financially qualified to construct, own and operate the proposed television broadcast station.

2. To determine whether the engineering data contained in the above-entitled application of Commodore Perry Broadcasting Service, Inc., is in accordance with the requirements of § 3.684 of the Commission's rules.

3. To determine the transmitter output and effective radiated power of the operation proposed by Commodore Perry Broadcasting Service, Inc., with particular reference to the ratio of aural to visual effective radiated power required by § 3.682 (a) (15) of the Commission's rules.

4. To determine on a comparative basis which of the operations proposed in the above-entitled applications would better serve the public interest, convenience and necessity in the light of the record made with respect to the significant differences between the applications as to:

(a) The background and experience of each of the above-named applicants having a bearing on its ability to own and operate the proposed television station.

(b) The proposals of each of the above-named applicants with respect to the management and operation of the proposed station.

(c) The programming service proposed in each of the above-entitled applications.

Released: August 4, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6936; Filed, Aug. 6, 1953; 8:54 a. m.]

[Docket No. 10620]

ARKANSAS RADIO & EQUIPMENT CO., AND ARKANSAS TELEVISION CO.

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re applications of Arkansas Radio & Equipment Company, Little Rock, Arkansas, Docket No. 10620, File No. BPCT-810; Arkansas Television Company, Little Rock, Arkansas, File No. BPCT-1057; for construction permits for new television broadcast stations.

1. The Commission has before it for consideration (a) a protest filed July 15, 1953, by Arkansas Broadcasting Company,[1] (hereinafter referred to as "protestant") licensee of standard broadcast station KLRA, Little Rock, Arkansas, directed against the Commission's action of June 17, 1953, granting without hearing the above-entitled application of Arkansas Radio & Equipment Company, for a permit to construct a television station on Channel 4 at Little Rock, and its action of June 19, 1953, accepting for filing an amendment to the above-entitled application of Arkansas Television Company wherein it proposed operation on Channel 11 in lieu of Channel 4, and (b) the "Motion To Strike Protest" filed on July 23, 1953, by Arkansas Television Company; and (c) the "Opposition to Protest" filed on July 27, 1953, by Arkansas Radio & Equipment Company. Set forth below as "Appendix A" is a copy of section 309 (c) of the Communications Act.

2. Prior to June 16, 1953, the above-entitled applications were mutually exclusive in that both sought construction permits to operate on Channel 4 in Little Rock, Arkansas. On June 16, 1953, Arkansas Television Company amended its application to request Channel 11 in Little Rock, in lieu of Channel 4, thereby leaving unopposed the Arkansas Radio & Equipment Company application. On June 17, 1953, the Commission granted said application and by Public Notice, on June 18, 1953, announced that such application had been granted. By Public Notice of June 19, 1953, the Commission announced that it had accepted for filing the amendment of Arkansas Television Company specifying Channel 11.

3. In support of its protest, protestant urges, in substance, that it is a party in interest since, as licensee of standard broadcast station KLRA, Little Rock, it will be adversely affected by the above-mentioned actions of the Commission; that it has expended over the past 25 years large sums of money in improving its broadcast facilities and rendering a meritorious radio broadcasting service in Little Rock and the surrounding area; that it had an oral understanding[2] with Arkansas Radio & Equipment Company whereby each would use jointly the same site on Shinall Mountain along with common supporting structure for antenna and other common facilities; that "shortly before June 17, 1953, and in complete disregard of the oral understanding for the use of a common site and tower, the Arkansas Radio & Equipment Company entered into an agreement with Arkansas Television Company,[3] the exact terms of which are not known to these protestants because this agreement was not included in and made a part of the amendment filed by the Arkansas Television Company; neither was it made a part of the application of the Arkansas Radio & Equipment Company "; that on June 17, 1953, the date of the Commission's action herein protested, the Commission had before it two mutually exclusive applications for Channel 4 since the Commission did not announce formal acceptance of the Arkansas Television Company amendment until June 19, 1953, and that, therefore, the Commission's action in granting the application of Arkansas Radio & Equipment Company is illegal and contrary to the decision in the Ashbacker case; that the failure of the Arkansas Television Company to make full and complete disclosure to the Commission of all contracts, understandings and agreements which it has with respect to the operation of the proposed station as re-

[1] The Gazette Publishing Company owns the majority of the stock of Arkansas Broadcasting and has joined as a protestant herein. The Commission is of the view that the Gazette Publishing Company, as a stockholder, does not have status independent of Arkansas Broadcasting Company to protest the grant herein.

[2] In Exhibit No. 1 attached to its protest, protestant recites its understanding of the alleged oral agreement between it and Arkansas Radio & Equipment Company. It is to the effect that T. K. Barton, General Manager of Arkansas Radio & Equipment Company, contacted Hugh B. Patterson, Jr., Secretary-Treasurer of Arkansas Broadcasting Company, suggesting that he would be desirous of working jointly with Patterson's company in securing a site to be used jointly, along with common supporting structure for antenna and other common facilities; that Barton was to secure the option to certain property on Shinall Mountain; that Barton secured such option; and that it was agreed that at an appropriate time Barton and Patterson would get together on specific plans.

[3] In support of its allegation that an agreement exists between Arkansas Radio & Equipment Company and Arkansas Television Company, protestant, in Exhibit No. 1, states that in a discussion with T. K. Barton subsequent to the grant of the Arkansas Radio & Equipment Company application, Barton stated that he was no longer able to carry out the verbal agreement; that Patterson could "assume" the existence of an agreement between Barton's company and Arkansas Television Company; that he could not make any agreement with Patterson's company with relation to use of the proposed site under the agreement whereby Arkansas Television Company had removed their competitive application from Channel 4; that the agreement was not reflected in his company's application; that he had been surprised that the Commission "had not questioned this point in his application" in granting his company's application; and that any ultimate agreement between Barton's and Patterson's companies would have to be worked out with the other parties.

quired by the Commission's rules[4] and FCC Form 301;[5] that the failure of the Arkansas Radio & Equipment Company to properly amend its application before it was granted by the Commission to include all of the agreements which it had entered into made its application defective and the granting thereof illegal; that the grant of the Arkansas Radio & Equipment Company application cannot possibly serve the public interest because of the above-mentioned exclusive agreement, which agreement is in violation of § 3.635 of the Commission's rules [6] that the site which is the subject of said agreement is the highest point in the Little Rock area which is accessible and which represents the best coverage from the area with the minimum amount of shadow· that the only other high location does not have any road approaches or suitable level space at its crest for the erection of an 1100 foot guyed tower;[7] that if the exclusive agreement continues to exist, protestant will be required to select a new mountain site involving several hundred thousand dollars and the public interest will thereby be affected in that the Shinall Mountain site is the highest available and the use of a lower site will seriously curtail the service area which protestant's proposed station can deliver to the viewing public; and that the affect of the exclusive agreement is the purchase of the exclusive right to apply for a frequency. Finally, protestant requests that the Commission vacate and set aside its action accepting for filing the purported amendment of the Arkansas Television Company application and the granting of the Arkansas Radio & Equipment Company application and designate both for hearing upon issues to determine the exact nature of the agreement, contract and/or understanding existing between Arkansas Radio & Equipment Company and Arkansas Television Company which caused the latter company to abandon its application on Channel 4 and to specify Channel 11.

4. In its "Motion to Strike Protest", Arkansas Television Company, applicant for Channel 11 in Little Rock, alleges, in substance, that it has not received a grant of any instrument of authorization and, therefore, that the Commission's acceptance of its amendment is not subject to protest under section 309 (c) of the Communications Act; that its amendment pointed out that its proposed site was identical with that of Arkansas Radio & Equipment Company and that a common supporting tower was proposed; that there is no requirement in the application form, nor any rule, which requires the submission of an agreement for the joint use of a supporting tower; that protestant's allegations in this respect are "makeweight" since protestant had a similar agreement with Arkansas Radio & Equipment Company and such agreement is not shown in protestant's application; and that protestant "must be guilty of misleading the Commission" since it alleges that an understanding existed with Arkansas Radio & Equipment Company to use a common transmitter site while protestant's application does not specify such site. Finally, Arkansas Television Company requests that the protest be stricken.

5. In support of its opposition to the instant protest, Arkansas Radio & Equipment Company asserts, in substance, that the protestant is not a party in interest since it alleges no economic loss and damage; that no oral understanding was ever reached between T. K. Barton and Hugh B. Patterson, Jr. as to a common use of a transmitter site by Arkansas Radio & Equipment Company and Arkansas Broadcasting Company· and that § 3.635 of the Commission's rules is not applicable inasmuch as other comparable sites in the Little Rock area are available and, therefore, that the exclusive use of the site in question would not "unduly limit the number of television stations that can be authorized in a particular area or unduly restrict competition among television stations."[8] Arkansas Radio & Equipment Company adopts the "Motion to Strike Protest" filed by Arkansas Television Company.

6. We are of the opinion that the instant protest must be denied insofar as it is directed against the Commission's action accepting the amendment to Arkansas Television Company's application specifying Channel 11 in lieu of Channel 4. Section 309 (c) of the act provides, among other things, that a grant of any instrument of authorization without a hearing shall remain subject to protest for a period of thirty days. Clearly, no instrument of authorization has been granted to Arkansas Television Company. Accordingly, the protest provisions of section 309 (c) are not available here to protestant to attack the Commission's acceptance of the amendment to Arkansas Television Company's application.

7. In light of the fact that protestant is the licensee of a standard broadcast station in Little Rock, Arkansas and that it has alleged that it will be adversely affected by the grant of June 17, 1953, to Arkansas Radio and Equipment Company, we are of the opinion, and accordingly find, that protestant is a party in interest within the meaning of section 309 (c) of the Communications Act. Sanders v. Federal Communications Commission, 309 U. S. 470; In re Application of Versluis Radio and Television, Inc., (FCC 53–314) In re applications of Salinas Broadcasting Corporation, et al., (FCC 53–397) Cf, Mansfield Journal Co. v. Federal Communications Commission, 173 F 2d 646.

8. The Commission further finds that the protestant has specified with particularity the facts, matters and things relied upon as required by section 309 (c) of the Communications Act to warrant the designation of the application herein for hearing on the issues specified in the protest. In making this finding, we do not determine or imply that any or all of these issues, even if the facts with respect thereto are as alleged by protestant, are such that they could result in a determination that the grant to Arkansas Radio & Equipment Company was improper, contrary to the public interest or should be set aside. Accordingly, said issues are not being adopted by the Commission, and the burden of proof thereon both in proving the facts alleged and in demonstrating their materiality and relevancy will be on the protestant.

9. In view of the foregoing, *It is ordered*, That the protest of the Gazette Publishing Company is dismissed, and that insofar as the protest of Arkansas Broadcasting Company is directed against the acceptance of the amendment to Arkansas Television Company's application and requests that the Commission vacate or set aside such action, it is denied.

10. *It is further ordered*, That, effective immediately, the effective date of the grant of the above-entitled application of Arkansas Radio & Equipment Company is postponed pending a final determination by the Commission with respect to the protest herein of Arkansas Broadcasting Company· and that, pursuant to section 309 (c) of the Communications Act of 1934, as amended, the above-entitled application is designated for hearing at the offices of the Commission in Washington, D. C. on the following issues:

(a) To determine the exact provisions of the contracts, agreements and/or understandings between Arkansas Radio & Equipment Company and Arkansas Television Company.

(b) To determine whether or not the contracts between the Arkansas Radio & Equipment Company and the Arkansas Television Company contain and show the full consideration passing between the parties for Arkansas Television Company abandoning its application on

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[4] Section 1.305 of the Commission's rules reads as follows:

§ 1.305 *Full disclosures.* Each application shall contain full and complete disclosures with regard to the real party or parties in interest, and their legal, technical, financial, and other qualifications, and as to all matters and things required to be disclosed by the application forms.

[5] Section II, Page 5, Question 22 (d) of FCC Form 301, reads as follows: "d. Are there any documents, instruments, contracts, or understandings relating to ownership, management, use or control of the station or facilities, or any right or interest therein? If so attach as Exhibit No. — copies of all such documents, instruments or contracts and state the substance of oral contracts or understandings."

[6] Section 3.635 of the Commission's rules reads as follows:

§ 3.635 *Use of common antenna site.* No television license or renewal of a television license will be granted to any person who owns, leases, or controls a particular site which is peculiarly suitable for television broadcasting in a particular area and (a) which is not available for use by other television licensees; and (b) no other comparable site is available in the area; and (c) where the exclusive use of such site by the applicant or licensee would unduly limit the number of television stations that can be authorized in a particular area or would unduly restrict competition among television stations.

[7] Protestant's showing with regard to engineering facts is based upon a verified statement, by a registered engineer, attached as Exhibit No. 3.

[8] Arkansas Radio & Equipment Company attached as Exhibits to its opposition verified statements by T. K. Barton and by an engineer.

Channel 4 at Little Rock and amending to specify Channel 11.

(c) To determine the full extent of the consideration between Arkansas Radio & Equipment Company and Arkansas Television Company and whether or not such consideration entailed payment of money, use of common antenna supporting structure only, use of building or buildings and/or use of land.

(d) To determine whether or not part of the consideration of the contracts or understandings between Arkansas Radio & Equipment Company and Arkansas Television Company included that Arkansas Television Company amend its application to Channel 11.

(e) To determine whether or not part part of the consideration whereby Arkansas Television Company abandoned its application on Channel 4 was to specifically permit the grant of the Arkansas Radio & Equipment Company application on Channel 4.

(f) To determine whether or not part of the consideration between Arkansas Television Company and Arkansas Radio & Equipment Company was to create additional conflict on Channel 11 and thereby further delay the establishment of a second television station for the public in Little Rock.

(g) To determine whether or not part of the consideration and/or understandings between Arkansas Radio & Equipment Company and Arkansas Television Company entailed the right for the latter to purchase an interest in the Arkansas Radio & Equipment Company in the event Arkansas Television Company were unsuccessful in its application on Channel 11.

(h) To determine whether or not part of the consideration contained in the contracts and/or understandings between Arkansas Radio & Equipment Company and Arkansas Television Company provided for the exclusive use of the Shinall Mountain television tower by these parties in violation of the provisions of § 3.635 of the Commission's rules and regulations.

(i) To determine whether or not the applications of Arkansas Radio & Equipment Company and Arkansas Television Company contain full disclosure of all matters as required by § 3.623 of the Commission's rules and by the Commission's application form number 301.

(j) To determine whether or not contracts and/or understandings existing between Arkansas Radio & Equipment Company and Arkansas Television Company relate to the ownership or control of licensee or permittee or of the licensees or permittees stock, rights or interests therein or relate to changes in such ownership or control as required by § 1.342 of the Commission's rules and regulations and section 310 of the Communications Act of 1934, as amended.

The burden of proof as to each of the above issues shall be on the protestant.

11. *It is further ordered,* That the protestant, Arkansas Broadcasting Company, and the Chief of the Broadcast Bureau are hereby made parties to the proceeding herein and that:

(a) The hearing on the above issues commences at 10:00 a. m. on August 17, 1953, before an Examiner to be specified by the Commission; and

(b) The parties to the proceedings shall have fifteen (15) days after the issuance of the Examiner's decision to file exceptions thereto and seven (7) days thereafter to file replies to any such exceptions; and

(c) The appearances by the parties intending to participate in the above hearing shall be filed not later than August 10, 1953.

Adopted: July 30, 1953.

Released: August 3, 1953.

FEDERAL COMMUNICATIONS COMMISSION,[9]

[SEAL] T. J. SLOWIE,
Secretary.

APPENDIX A

Section 309 (c). When any instrument of authorization is granted by the Commission without a hearing as provided in subsection (a) hereof, such grant shall remain subject to protest as hereinafter provided for a period of thirty days. During such thirty-day period any party in interest may file a protest under oath directed to such grant and request a hearing on said application so granted. Any protest so filed shall contain such allegations of fact as will show the protestant to be a party in interest and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. The Commission shall, within fifteen days from the date of the filing of such protest, enter findings as to whether such protest meets the foregoing requirements and if it so finds the application involved shall be set for hearing upon the issues set forth in said protest, together with such further specific issues, if any, as may be prescribed by the Commission. In any hearing subsequently held upon such application all issues specified by the Commission shall be tried in the same manner provided in subsection (b) hereof, but with respect to all issues set forth in the protest and not specifically adopted by the Commission, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the protestant. The hearing and determination of cases arising under this subsection shall be expedited by the Commission and pending hearing and decision the effective date of the Commission's action to which protest is made shall be postponed to the effective date of the Commission's decision after hearing, unless the authorization involved is necessary to the maintenance or conduct of an existing service, in which event the Commission shall authorize the applicant to utilize the facilities or authorization in question pending the Commission's decision after hearing.

[F. R. Doc. 53-6937; Filed, Aug. 6, 1953; 8:54 a. m.]

[U. S. Change List Number 517]

U. S. STANDARD BROADCAST STATIONS

LIST OF CHANGES, PROPOSED CHANGES AND CORRECTIONS IN ASSIGNMENTS

JULY 29, 1953.

Notification under the provisions of Part III, section 2 of the North American Regional Broadcasting Agreement.

This notification consists of a list of changes, proposed changes, and corrections in Assignments of United States Standard Broadcast Stations modifying the Appendix containing assignments of United States Standard Broadcast Stations, Mimeograph # 48126, attached to the "Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941" as amended.

UNITED STATES

Call letters	Location	Power (kw.)	Antenna	Schedule	Class	Date of FCC action	Proposed date of change or commencement of operation
			620 kilocycles				
WRBC	Jackson, Miss. (change in call letters from WJDX) (see Change List No. 514, 1300 kc/s, change in call letters WJDX to WRBC).						
			630 kilocycles				
NEW	Edmonds, Wash.	1	ND	D	III	July 29, 1953	July 29, 1954.
			690 kilocycles				
KSTL	St. Louis, Mo. (PO: 1 kw, ND, U, II).	10	DA	D	II	do	Do.
			1230 kilocycles				
WSOO	Sault Sainte Marie, Mich. (increase in night time power from 100 watts).	0.25	ND	U	IV		Immediately.
WHVF	Wausau, Wis.	0.25	ND	U	IV		Now in operation.
			1340 kilocycles				
KMAK	Fresno, Calif.	0.25	ND	U	IV		Do.
			1420 kilocycles				
WCRE	Cheraw, S. C.	0.5	ND	D	III		Do.

NOTE: Correct call letters for station in Wausau, Wisconsin on 550 kc/s are WOSA. Correct call letters for station in Seattle, Washington on 1590 kc/s are KLOQ.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6938; Filed, Aug. 6, 1953; 8:55 a. m.]

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[9] Dissenting opinion of Commissioner Doerfer filed as a part of original document.

[Docket Nos. 10486, 10487, 10488, 10601]

GEORGE A. SMITH, JR., ET AL.

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In the matter of George A. Smith, Jr., Dallas, Texas, Docket No. 10486, File No. 271–C2–P–53; applications for construction permits for stations in the Domestic Public Land Mobile Radio Service; Dallas Electronics, Inc., Dallas, Texas, Docket No. 10487, File No. 576–C2–R–53; application for renewal of license of station KKE971 in the Domestic Public Land Mobile Radio Service; Dallas Electronics, Inc., Dallas, Texas, Docket No. 10488, File No. 869–C2–P–53; application for construction permit to change location and increase power of station KKE971, O. P. Leonard, Jr., d/b as Trinity Dispatch Company, Fort Worth, Texas, Docket No. 10601, File Nos. 1169–C2–L–53, 1574–C2–ML–53; applications for licenses to cover construction permits in the Domestic Public Land Mobile Radio Service.

The Commission has before it a petition filed on May 22, 1953, by George A. Smith, Jr., to revoke and set aside the grant of certain construction permits of Trinity Dispatch Company. Trinity Dispatch Company (Trinity) was granted construction permit for stations in the Domestic Public Land Mobile Radio Service on December 3, 1952, and licenses on April 27, 1953. George A. Smith, Jr. (Smith) is an applicant for construction permits in the same service at Dallas, Texas, on the same frequencies granted to Trinity for Fort Worth, Texas.

Smith's applications were designated for consolidated hearing by order of May 6, 1953, with applications filed in February 1953 by Dallas Electronics, Inc. (Electronics) for renewal of license of station KKE971, Dallas, Texas, and for a construction permit to increase the power of station KKE971. The consolidated hearing resulted from the fact that Smith and Electronics have requested the assignment of the same frequencies in the same area, so that their applications are mutually exclusive. Trinity has been made a party respondent to the hearing because of the possibility of objectionable electrical interference which Trinity's station KKG562, at Fort Worth might receive from Smith's proposed operation or from Electronics' proposed higher power operation.

On December 11, 1952, the Commission sent Smith a letter pursuant to section 309 (b) of the act,[1] advising him that the Commission could not find that a grant of his applications was in the public interest, primarily because the frequencies requested were assigned to Electronics. Electronics had received its construction permits on February 28, 1952, and received a license to cover them on December 22, 1952. Two days later Smith, apparently unaware of the license grant, requested revocation of Electronics' construction permits. On February 2, 1953, Electronics filed an application for renewal of license and, on February 20, 1953, filed its application to change location and increase power. Smith's applications were then designated for consolidated hearing with Electronics' applications.

The present Smith petition, to which no opposition has been filed, requests that the grants to Trinity be set aside and that Trinity's applications also be designated for consolidated hearing with Smith's applications. Trinity's applications for construction permits were filed on June 9, 1952, and granted December 3, 1952. Smith originally filed his applications on September 26, 1952, and filed new applications on October 13, 1952, after the original applications were returned as defective. The Trinity construction permits were granted on December 3, 1952, without hearing.

Smith's petition is based upon the claim that the grant of construction permits to Trinity without a hearing, made while his applications were pending, indicated that the Commission did not consider that the two operations would produce mutually harmful interference, and that this conclusion was fortified by the Commission's failure, in its letter of December 11, 1952, to give harmful interference to Trinity as a reason why a grant of Smith's applications was not in the public interest. Now that the Commission has included in its hearing order of May 6, 1953, released May 8, 1953, an issue with respect to possible harmful interference to Trinity, Smith's position is that the Commission either improperly granted Trinity's construction permits without a hearing or has improperly included this issue in the Smith-Electronics hearing. On March 10, 1953, the Commission had sent Smith a second letter pursuant to section 309 (b) of the Communications Act, in which it raised the question of interference to the Fort Worth operation.[2] Smith says that the letter of March 10, 1953 did not mention "the possibility of harmful interference to Trinity" and, in any event, came too late for Smith to protest the grant of the Trinity construction permits.

Section 6.409 of the Commission's rules and regulations provides that each frequency available for use in this service will normally be assigned exclusively to a single applicant in any service area. The cities of Dallas and Fort Worth are approximately 32 airline miles apart, and the Commission, in its decision in Dockets Nos. 9849 et al., released February 28, 1952, in which Electronics received its original grant, recognized that the two cities must be considered together in making frequency assignments on an interference-free basis. In that proceeding, we found that co-channel operation between stations in the two cities was feasible to a limited extent only, under certain conditions of power and antenna height, and that simultaneous co-channel operations in Dallas and Fort Worth may be mutually exclusive. We believe that the issue with respect to the possible harmful interference between Dallas and Fort Worth is properly in the present hearing, and that the Commission's letter of March 10, 1953 adequately apprised Smith of this impediment to a grant of his applications without hearing.

The present petition filed by Smith is obviously not timely with respect to reconsideration of the grant of Trinity's construction permits. Since it was filed within 20 days of May 4, 1953, the date of public notice of the grant of Trinity's licenses, there is no need to consider the propriety of the institution of proceedings to revoke the licenses. The question is one of reconsideration of the grant of licenses to Trinity. In our decision released June 29, 1953, in the matter of Benton Broadcasting Service (KBBA) (FCC 53–792) we discussed the problem presented where a license grant is challenged upon grounds which might have been urged at the time the construction permit was granted. We have essentially the same situation in this proceeding. We found in the earlier case that there was no right to a hearing under section 309 (c) the protest provision, or under section 316 (a) providing for a hearing where an existing license is modified, at the time a license to cover the construction permit is granted. The holding of a hearing is rather a matter of discretion. The decisive question, we said, was whether it appeared that new facts had come to light which showed that a grant of the license was not in

[1] Section 309 (b) provides: If upon examination of any such application the Commission is unable to make the finding specified in subsection (a), it shall forthwith notify the applicant and other known parties in interest of the grounds and reasons for its inability to make such finding. Such notice, which shall precede formal designation for a hearing, shall advise the applicant and all other known parties in interest of all objections made to the application as well as the source and nature of such objections. Following such notice, the applicant shall be given an opportunity to reply. If the Commission, after considering such reply, shall be unable to make the finding specified in subsection (a), it shall formally designate the application for hearing on the grounds or reasons then obtaining and shall notify the applicant and all other known parties in interest of such action and the grounds and reasons therefor, specifying with particularity the matters and things in issue but not including issues or requirements phrased generally. The parties in interest, if any, who are not notified by the Commission of its action with respect to a particular application may acquire the status of a party to the proceeding thereon by filing a petition for intervention showing the basis for their interest at any time not less than ten days prior to the date of hearing. Any hearing subsequently held upon such application shall be a full hearing in which the applicant and all other parties in interest shall be permitted to participate but in which both the burden of proceeding with the introduction of evidence upon any issue specified by the Commission, as well as the burden of proof upon all such issues, shall be upon the applicant.

[2] This letter stated in part: In addition to the reasons given in our previous letter as to why it appears that a hearing will be necessary in connection with your applications, it also appears that consideration must be given in such hearing to the transmitter output power, transmitter antenna height and location, necessary to provide adequate service in the Dallas area and the effect of the use of such power, antenna and site upon co-channel operation between the subject station in Dallas and a station in Fort Worth.

the public interest. See section 319 (c) of the act, as amended.

The principles enunciated in the Benton Broadcasting Service case are applicable here. In the present case, the question of possible mutual exclusivity between the Smith and Trinity proposals has now been pressed upon us for the first time, and we do not believe that a hearing is mandatory. We believe, however, that it would be in the public interest to determine whether there is such mutual exclusivity and, if so, whether the operation of Trinity's station would, because of that fact, be against the public interest. Such a determination can be intelligently made only in light of the full development of the facts which would be disclosed at a hearing.

It has not been definitively determined that the applications of Smith and Electronics, or either of them, are mutually exclusive with Trinity. Moreover, to require Trinity to cease operating at this time would deprive its customers of service. We will, therefore, permit Trinity to continue operations pursuant to a conditional grant pending determination of the questions raised herein.

Accordingly, *It is ordered,* That the grant of the applications for station licenses of O. P Leonard, Jr., d/b as Trinity Dispatch Company, File Nos. 1169-C2-L-53 & 1574-C2-ML-53 is set aside, the said applications are designated for hearing in a consolidated proceeding with Dockets Nos. 10486, 10487 and 10488, and the said applications are granted conditionally, subject to such determination as may be made in said consolidated proceeding; and

It is further ordered, That, in lieu of the issues specified in the Commission's order of May 6, 1953, in Dockets Nos. 10486, 10487 and 10488, the following issues are specified in such proceeding:

1. To determine the areas and populations which may be expected to receive service from each proposed facility and the need for such service in the areas proposed to be served.

2. To determine the facts with respect to the proposed facilities, personnel, rates, regulations, practices and services of George A. Smith, Jr., and Dallas Electronics, Inc., for the furnishing of Domestic Public Land Mobile Radio Service.

3. To determine whether any mutually harmful electrical interference would result from the operation of the proposed stations and, if so, whether, in view of the nature of the service proposed, such interference would be undesirable or intolerable.

4. To determine, if the proposed operations in Fort Worth and Dallas are found to be mutually exclusive, whether the public interest would be better served by a grant to an applicant for a station in Dallas or Fort Worth.

5. To determine the financial qualifications of Dallas Electronics, Inc.

6. To determine whether an unauthorized transfer of control of Dallas Electronics, Inc., took place between March 9, 1951 and September 3, 1952.

7. To determine whether the representations of Dallas Electronics, Inc., with respect to its ownership, made prior to the original grant of construction permits, on which the Commission relied in granting construction permits were true and correct at the time they were made.

8. To determine, if a grant is to be made for a station in Dallas, whether George A. Smith, Jr., or Dallas Electronics, Inc., is better qualified to serve the public interest, convenience or necessity.

It is further ordered, That, except as otherwise indicated herein, the petition of George A. Smith, Jr., filed May 22, 1953 is denied.

Adopted: July 29, 1953.

Released: July 31, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-6887; Filed, Aug. 6, 1953; 8:45 a. m.]

HOUSING AND HOME FINANCE AGENCY

Federal Housing Administration

FIELD ORGANIZATION

LOCATION OF OFFICES; CHANGES OF ADDRESS

The following entries in Section 22 (b) (5) are amended as indicated:

Opposite "Wilmington, Delaware" delete the address "Eckerd Bldg., Ninth & Orange Sts." and in lieu thereof insert "Room 328, Continental American Life Insurance Bldg., 11th and King Sts."

Opposite "Jacksonville, Florida" delete the address "Greenleaf Bldg., Laura & Adams St," and in lieu thereof insert "St. Johns Apartment Bldg., 610 Julia St."

Opposite "Louisville, Kentucky" delete the address "Post Office Bldg." and in lieu thereof insert "Hoffman Bldg., 139 So. 4th St."

Opposite "Oklahoma City, Oklahoma" delete the address "Leonhardt Bldg., 228 Northwest Second St." and in lieu thereof insert "Commerce Exchange Bldg."

Opposite "Providence, Rhode Island" delete the address "Old Colony House, 58 Weybosset St." and in lieu thereof insert "Room 300, Post Office Annex."

Opposite "Fort Worth, Texas" delete the address "Electric Bldg." and in lieu thereof insert "300 W Vickery Blvd."

Opposite "Lubbock, Texas" delete the address "Room 16, Post Office Bldg." and in lieu thereof insert "Veterans' Administration Bldg."

OSBORNE KOERNER,
Director
Administrative Services.

JULY 31, 1953.

[F. R. Doc. 53-6898; Filed, Aug. 6, 1953; 8:47 a. m.]

Home Loan Bank Board

NOTICE OF DISSOLUTION OF THE HOME OWNERS' LOAN CORPORATION

Pursuant to the provisions of section 21 of the act entitled "Housing Amendments of 1953," approved June 30, 1953, (Public Law No. 94—83d Congress), notice is hereby given that one hundred and eighty days after the publication of this notice in the FEDERAL REGISTER, the Home Owners' Loan Corporation, created pursuant to section 4 of the Home Owners' Loan Act of 1933, as amended, will cease to exist and will for all purposes be considered dissolved and abolished except for the purpose of defending suits brought against it prior to the date of its dissolution.

All creditors and claimants against the Home Owners' Loan Corporation are hereby required to present their respective claims, accounts and demands against said Corporation in writing and in detail, verified on oath, to the Home Owners' Loan Corporation at 101 Indiana Avenue, NW., Washington, D. C., within ninety days immediately following publication of this notice in the FEDERAL REGISTER. All creditors and claimants who have not so presented their claims or demands within said period shall be forever barred from presenting or prosecuting the same, and any creditor or claimant who has not instituted suit within sixty days from the date his claim or demand is rejected by said Corporation will be forever barred.

(12 U. S. C. 1463 (a) (k); sec. 21 (a) (b), Pub. Law 94, 83d Cong.)

By the Home Loan Bank Board.

[SEAL] J. FRANCIS MOORE,
Secretary.

[F. R. Doc. 53-6923; Filed, Aug. 6, 1953; 8:51 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 28324]

PULPBOARD FROM GEORGETOWN, S. C., TO NEW JERSEY

APPLICATION FOR RELIEF

AUGUST 4, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Pulpboard or fibreboard, carloads.

From: Georgetown, S. C.

To: Specified points in New Jersey.

Grounds for relief: Competition with motor-water carriers.

Schedules filed containing proposed rates; C. A. Spaninger, Agent, tariff I. C. C. No. 1349, supp. 15.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their in-

terest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD, *Acting Secretary.*

[F. R. Doc. 53-6904; Filed, Aug. 6, 1953; 8:48 a. m.]

[4th Sec. Application 28325]

COAL FROM ALABAMA, TENNESSEE AND KENTUCKY TO GAINESVILLE AND NEW HOLLAND, GA.

APPLICATION FOR RELIEF

AUGUST 4, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for the Central of Georgia Railway Company and other carriers.

Commodities involved: Coal, carloads.

From: Mines in Alabama, Tennessee, and Kentucky.

To: Gainesville and New Holland, Ga.

Grounds for relief: Competition with rail carriers, circuitous routes, to maintain grouping.

Schedules filed containing proposed rates: Louisville and Nashville Railroad Company tariff I. C. C. No. A-16745, supp. 36; The Nashville, Chattanooga & St. Louis Railway tariff I. C. C. No. 3606-A, supp. 14.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD, *Acting Secretary.*

[F. R. Doc. 53-6905; Filed, Aug. 6, 1953; 8:48 a. m.]

[4th Sec. Application 28326]

MERCHANDISE IN MIXED CARLOADS FROM CINCINNATI, OHIO, TO GREENSBORO, N. C.

APPLICATION FOR RELIEF

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Merchandise in mixed carloads.

From: Cincinnati, Ohio.

To: Greensboro, N. C.

Grounds for relief: Competition with rail carriers, circuitous routes, additional routes.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, tariff I. C. C. No. 1305, supp. 26.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Acting Secretary.*

[F. R. Doc. 53-6906; Filed, Aug. 6, 1953; 8:48 a. m.]

[4th Sec. Application 28327]

CANNED GOODS FROM GULF PORTS TO ATLANTA AND LA GRANGE, GA.

APPLICATION FOR RELIEF

AUGUST 4, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Canned goods, carloads.

From: New Orleans, La., Gulfport, Miss., and Mobile, Ala. (on import traffic)

To: Atlanta and La Grange, Ga.

Grounds for relief: Competition with rail carriers, circuitous routes, additional routes.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, ICC No. 1369, supl. 5.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Acting Secretary.*

[F. R. Doc. 53-6907; Filed, Aug. 6, 1953; 8:49 a. m.]

[4th Sec. Application 28328]

PHOSPHATE ROCK FROM FLORIDA TO SOUTHWEST

APPLICATION FOR RELIEF

AUGUST 4, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedules listed below.

Commodities involved: Phosphate rock, ground or not ground, not acidulated nor ammoniated, carloads.

From: Points in Florida.

To: Points in Oklahoma, Arkansas, and Texas.

Grounds for relief: Competition with rail carriers, circuitous routes, to maintain grouping, to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: Atlantic Coast Line Railroad Company, ICC No. B-3232, supl. 78; Seaboard Air Line Railroad Company, ICC No. A-8153, supl. 78.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Acting Secretary.*

[F. R. Doc. 53-6908; Filed, Aug. 6, 1953; 8:49 a. m.]

[4th Sec. Application 28329]

CONCRETE MIX FROM CERTAIN POINTS TO SOUTHWESTERN TERRITORY AND OTHER TERRITORIES

APPLICATION FOR RELIEF

AUGUST 4, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by F. C. Kratzmeir, Agent, for carriers parties to schedules listed below.

Commodities involved: Concrete mix, dry, carloads.

From: Points in Arkansas, Illinois, Kansas, Louisiana, Missouri, Nebraska, Oklahoma, Tennessee, and Texas.

To: Points in southwestern, official, Illinois, western trunk-line and southern territories,

Grounds for relief: Competition with rail carriers, circuitous routes, to maintain grouping, change in commodity description.

Schedules filed containing proposed rates; F. C. Kratzmeir, Agent, ICC No. 4060, supl. 1, F. C. Kratzmeir, Agent, ICC No. 3870, supl. 30; F C. Kratzmeir, Agent, ICC No. 3934, supl. 38; F C. Kratzmeir, Agent, ICC No. 4046, supl. 21.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-6909; Filed, Aug. 6, 1953; 8:49 a. m.]

[4th Sec. Application 28330]

REFINED SULPHUR FROM TEXAS AND LOUISIANA TO CENTRAL TERRITORY

APPLICATION FOR RELIEF

AUGUST 4, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by F C. Kratzmeir, Agent, for carriers parties to schedule listed below.

Commodities involved: Refined sulphur, carloads.

From: Points in Texas and Louisiana.

To: Cincinnati, Ohio, and Indianapolis, Ind.

Grounds for relief: Competition with rail carriers, circuitous routes, competition or motor-water carriers referred to.

Schedules filed containing proposed rates: F C. Kratzmeir, Agent, ICC No. 3862, supl. 192.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-6910; Filed, Aug. 6, 1953; 8:49 a. m.]

[4th Sec. Application 28331]

FERTILIZER SOLUTIONS FROM VICKSBURG AND YAZOO CITY, MISS., TO DUBUQUE, IOWA

APPLICATION FOR RELIEF

AUGUST 4, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Fertilizer ammoniating solution and nitrogen fertilizer solution, in tank-car loads.

From: Vicksburg and Yazoo City, Miss.

To: Dubuque, Iowa.

Grounds for relief: Competition with rail carriers, circuitous routes, to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, ICC No. 1366, supl. 3.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-6911; Filed, Aug. 6, 1953; 8:49 a. m.]

[4th Sec. Application 28332]

COTTONSEED OIL CAKE MEAL BETWEEN POINTS IN SOUTHERN TERRITORY

APPLICATION FOR RELIEF

AUGUST 4, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to C. A. Spaninger's tariff ICC No. 1231.

Commodities involved: Cottonseed oil cake meal as described in the application, carloads.

Between: Points in southern territory.

Grounds for relief: Competition with rail carriers, circuitous routes, to apply rates constructed on the basis of the short line distance formula, change in commodity description.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-6912; Filed, Aug. 6, 1953; 8:49 a. m.]

[4th Sec. Application 28333]

CIGARETTES AND TOBACCO FROM RICHMOND AND PETERSBURG, VA., TO CINCINNATI AND LOUISVILLE

APPLICATION FOR RELIEF

AUGUST 4, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by C. W. Boin, Agent, for carriers parties to schedule listed below.

Commodities involved: Cigarettes and manufactured tobacco, carloads.

From: Richmond and Petersburg, Va.

To: Cincinnati, Ohio, and Louisville, Ky.

Grounds for relief: Competition with rail carriers, circuitous routes, competition with motor carriers.

Schedules filed containing proposed rates; C. W Bom, Agent, tariff I. C. C. No. A-941, supp. 63.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-6913; Filed, Aug. 6, 1953; 8:49 a. m.]

[4th Sec. Application 28334]

PAPER AND PAPER ARTICLES FROM ARKANSAS, LOUISIANA AND TEXAS TO KIMBALLTON AND SALTVILLE, VA.

APPLICATION FOR RELIEF

AUGUST 4, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by F. C. Kratzmeir, Agent, for carriers parties to schedule listed below.

Commodities involved: Wrapping paper, paper bags, printing paper, and other paper articles, carloads.

From: Points in Arkansas, Lousiana, and Texas.

To: Kimballton and Saltville, Va.

Grounds for relief: Competition with rail carriers, circuitous routes.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, tariff I. C. C. No. 3945, supp. 55.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-6914; Filed, Aug. 6, 1953; 8:49 a. m.]

[4th Sec. Application 28335]

FERTILIZER AND FERTILIZER MATERIALS FROM LOUISIANA, ARKANSAS AND TEXAS TO WAKEFIELD, VA., GROUP

APPLICATION FOR RELIEF

AUGUST 4, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by F. C. Kratzmeir, Agent, for carriers parties to schedule listed below.

Commodities involved: Fertilizer, fertilizer materials, solutions, and related articles, carloads.

From: Bastrop, La., Little Rock, Ark., Doyline, La., Holmwood, La., North Little Rock and Eldorado, Ark., Houston, Tex., Sterlington, Empire, Lake Charles, and West Lake Charles, La., Etter and Lone Star, Tex.

To: Wakefield, Va., and stations grouped therewith.

Grounds for relief: Competition with rail carriers, circuitous routes, market competition, to apply rates constructed on the basis of the short-line distance formula.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, tariff I. C. C. No. 3746, supp. 123.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-6915; Filed, Aug. 6, 1953; 8:50 a. m.]

[4th Sec. Application 28336]

SAND, GRAVEL, LIMESTONE AND RELATED ARTICLES TO AND FROM FLORIDA

APPLICATION FOR RELIEF

AUGUST 4, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Sand, gravel, limestone, and related articles, carloads.

From, to, and within the Florida Peninsula.

Grounds for relief: Competition with rail carriers, circuitous routes, to maintain grouping, to apply rates constructed on the basis of the short-line distance formula.

Schedules filed containing proposed rates; C. A. Spaninger, Agent, tariff I. C. C. No. 1315, supp. 17.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-6916; Filed, Aug. 6, 1953; 8:50 a. m.]

[4th Sec. Application 28337]

SUGAR FROM WEST TO ILLINOIS

APPLICATION FOR RELIEF

AUGUST 4, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by W. J. Prueter, Agent, for carriers parties to schedule listed below.

Commodities involved: Sugar, beet or cane, carloads.

From: Points in Colorado, Idaho, Kansas, Montana, Nebraska, Oregon, South Dakota, Utah and Wyoming.

To: Points in Illinois.

Grounds for relief: Competition with rail carriers, circuitous routes, market competition.

Schedules filed containing proposed rates: C. J. Hennings' Alternate Agent, ICC No. A-3664, supl. 57.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Com-

mission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-6917; Filed, Aug. 6, 1953; 8:50 a. m.]

[4th Sec. Application 28338]

ANHYDROUS AMMONIA FROM ARKANSAS, LOUISIANA AND TEXAS TO WAKEFIELD, VA., GROUP

APPLICATION FOR RELIEF

AUGUST 4, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to schedule listed below.

Commodities involved: Anhydrous ammonia, in tank-car loads.

From: Points in Arkansas, Louisiana and Texas.

To: Wakefield, Va., and points grouped therewith.

Grounds for relief: Competition with rail carriers, circuitous routes, to maintain grouping.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, ICC No. 3746, supl. 123.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-6918; Filed, Aug. 6, 1953; 8:50 a. m.]

[4th Sec. Application 28339]

CRUDE PUMICE FROM AMMON AND IONA, IDAHO AND SUPERIOR, WYOMING, TO NORTH DAKOTA AND MINNESOTA

APPLICATION FOR RELIEF

AUGUST 4, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: W. J. Prueter, Agent, for carriers parties to schedule listed below.

Commodities involved: Pumice, crude or crushed, not ground, carloads.

From: Ammon and Iona, Idaho, and Superior, Wyo.

To: Stations in North Dakota and Minnesota.

Grounds for relief: Competition with rail carriers, circuitous routes, to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. J. Hennings' Alternate Agent, ICC No. A-3560, supl. 220 Union Pacific Railroad Company, ICC No. 5285, supl. 32.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-6919; Filed, Aug. 6, 1953; 8:50 a. m.]

[4th Sec. Application 28340]

PULPWOOD AND SAWMILL REFUSE FROM POINTS ON KANSAS CITY SOUTHERN RAILWAY TO NATCHEZ, MISS.

APPLICATION FOR RELIEF

AUGUST 4, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: The Kansas City Southern Railway Company and Louisiana & Arkansas Railway Company, for themselves and on behalf of the Missouri Pacific Railroad Company and Natchez & Southern Railway Company.

Commodities involved: Pulpwood and sawmill refuse, carloads.

From: Points on the Kansas City Southern Railway.

To: Natchez, Miss.

Grounds for relief: Competition with rail carriers, circuitous routes.

Schedules filed containing proposed rates: Louisiana & Arkansas Railway Company, PCC No. 1710, supl. 1.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-6920; Filed, Aug. 6, 1953; 8:50 a. m.]

[4th Sec. Application 28341]

MALT LIQUORS AND RETURNED EMPTY CONTAINERS BETWEEN MILWAUKEE, WIS. AND SOUTHERN TERRITORY

APPLICATION FOR RELIEF

AUGUST 4, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. G. Raasch, Agent, for carriers parties to schedule listed below.

Commodities involved: Malt liquors and returned empty containers, carloads.

Between: Milwaukee, Wis., and points in southern territory.

Grounds for relief: Competition with rail carriers, circuitous routes, additional routes.

Schedules filed containing proposed rates: R. G. Raasch, Agent, ICC No. 779, supl. 5.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-6921; Filed, Aug. 6, 1953; 8:51 a. m.]